

C O N T E N T S.

Papers on Agricultural Indebtedness.

1. Report of the Select Committee on the Bengal Relief of Indebtedness Bill, 1935. (Chairman: K.Nazimuddin.) X9(U):6:(2762). N35 L pp. 1- 20.
2. The Central Provinces Debt Conciliation Act, 1933. X9(U):6:(2271) pp. 21- 26
3. Report of the Economic Depression Relief Measures Committee, Cochin, 1934. (Chairman: C.V.Antony.) X9(U):6. 223. N35 pp. 27- 43.
4. Report on Agricultural Indebtedness, Madras, 1935. By W.R.S.Sathyathan. X9(U):6. 21. N35 pp. 44- 81.
5. The Mysore Agriculturists' Relief Regulation, 1928. X9(U):6:(2224) pp. 82- 89.
6. Bill to Amend the Mysore Agriculturists' Relief Regulation, 1928. X9(U):6:(2224) pp. 90- 91.
7. Report of the Agriculturists' Relief Committee in Mysore, 1935. Papers regarding the appointment of the Committee. X9(U):6:(2224). N35 pp. 92- 98.
8. Report of the Agriculturists' Relief Committee, Mysore, 1935. (Chairman: N.Madhava Rau.) X9(U):6:(2224). N35 pp. 99-122.
9. The Punjab Relief of Indebtedness Bill, 1934. X9(U):6:(2236). N35 pp.123-134.
10. Report of the Select Committee on the Punjab Relief of Indebtedness Bill, 1934. X9(U):6:(2236). N35 pp.135-146.
11. The Punjab Relief of Indebtedness Act, 1934. X9(U):6:(2236). N35 pp.147-149.
12. Report of the Select Committee on the Punjab Debtors' Protection Bill, 1935. (Ujjal Singh) X9(U):6:(2236). N35 pp.150-153.
13. Report: Agricultural Debt Enquiry Committee, United Provinces, 1932. (Chairman: E.A.H. Blunt.) X9(U):6. 252. N35 pp.154-216.
14. The United Provinces Agriculturists' Relief Act, 1934. X9(U):6:(2252) pp.217-225.
15. Bankers' Memorandum on the Agriculturists' Relief Act. U.P. X9(U):6:(2252) pp.226-232.
16. Bankers' Memorandum on the Regulation of Sales Bill. pp.233-237.

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PART IV

Bills introduced in the Bengal Legislative Council, Reports of Select Committees presented or to be presented to that Council, and Bills published before introduction in that Council.

**BENGAL LEGISLATIVE COUNCIL
DEPARTMENT.**

NOTIFICATION.

No. 4220L.C.—14th November, 1935.—The following report of the Select Committee on the Bengal Relief of Indebtedness Bill, 1935, with the Bill embodying amendments recommended by them, annexed, is hereby published for general information.

**Report of the Select Committee on the Bengal Relief of Indebtedness
Bill, 1935.**

We, the members of the Select Committee of the Bengal Legislative Council to which the Bengal Relief of Indebtedness Bill, 1935, was referred by a motion carried in the Bengal Legislative Council on the 28th August, 1935, have the honour to submit this our report with the Bill embodying amendments recommended by us annexed. All matter recommended to be omitted by the Select Committee has been printed in *italics* and enclosed in square brackets and all new matter recommended to be inserted has been underlined.

2. The Bill was published in English in an *Extraordinary* issue of the *Calcutta Gazette* of the 12th August, 1935.

3. We do not consider that the Bill has been so altered by our recommendations as to require republication.

4. The Committee met for the first time in Calcutta on the 29th August, 1935, continued its sittings in Darjeeling on the 16th October, 1935, and concluded them on the 28th October, 1935.

5. The changes made in the Bill are as follows:—

In the first paragraph of the Preamble we have considered it desirable to specify clearly that the Bill is intended to provide for the relief of indebtedness of agricultural debtors.

Clause 1.—We have also for similar reasons changed the Short Title.

Clause 2, sub-clause (1).—We have included in this definition dairy farming as we consider this to be a well-recognised branch of agriculture.

Sub-clause (2).—The alteration has been made in view of the insertion of clause 9A regarding joint debts.

Sub-clause (5).—The alteration made here is consequential upon the new proviso to clause 4.

Sub-clause (8).—We have considered it desirable to omit items (i) and (ii) as we do not see any special reason for excluding these debts from the definition. We have, however, excluded from definition of debt contingent liabilities and share of produce of land payable under the system known as *adhi, barga* or *bhag*.

Item (iv) has been revised from a drafting point of view to make the intention clearer.

Items (vi) and (vii) have been replaced by new item (va) at the suggestion of the Government of India to which we have agreed.

Sub-clause (9).—We have recast the first portion of the definition of debtor to include a *raiyat*, under-*raiyat* or person who cultivates land by himself or by members of his own family or by hired labourers or by *adhiaras*, *bargadars* or *bhagdars*.

We have considered it desirable to include in this definition groups of persons who join in making an application under clause 9A (1).

We have omitted the second portion of the existing sub-clause (9) in regard to the finality of the decision of the Board and have reproduced it as a new clause 19A as being more suitable.

Sub-clause (15).—The change made here is purely verbal.

Sub-clause (16).—The additions to the expressions "*raiyat*" and "under-*raiyat*" are necessitated by the use of these expressions in the revised definition of debtor in sub-clause (9) referred to above.

Clause 3(2).—The omission suggested here is purely consequential to the omission of clause 8.



Clause—We have modified the proviso to clause 4 so as to ensure that when a Board is dissolved, and it is not possible for the Local Government for any reason to appoint another Board, any work in connection with work already undertaken by the defunct Board, other than the making of the award, may be carried out by the Collector. The award, however, shall be made by an officer of judicial experience to be especially appointed in this behalf by the Local Government.

Clause—We have considered it desirable to provide that the Local Government and not the Commissioner should be the authority to invest Boards with special powers. The other change in this clause is purely consequential.

Clause—We have considered it desirable to omit this provision as, in our opinion, if a Board is given power to withdraw applications from other Boards, it may lead to undesirable complications. We have, however, inserted a clause 33A providing for the transfer of applications under clause 9 from one Board to another. We have also considered it desirable to give the Settlement Officer power to transfer applications if he considers it expedient so—*vide* new clause 34A.

Clause—We have recast sub-clause (1) in order to restrict applications being made to Boards established for the area in which a debtor ordinarily resides.

Sub-cl (2).—We have omitted this sub-clause as being inappropriate. We have, however, inserted two new sub-clauses (6) and (7) in this clause providing for a further application being entertained by a Board for good sufficient reasons.

In sub-clause (7) we have considered it desirable to make a specific provision to the effect that a Board is not to entertain a further application under sub-clause (1) or sub-clause (3) in respect of a debt which has been incurred by the debtor after the date of the first application.

This important change will ensure that the Bill should be an emergency measure.

New clause 9A.—We have considered it desirable to include this new provision relating to settlement of debts by joint debtors.

In sub-clause (2) power is given to the Board to entertain an application by a debtor who is jointly liable in respect of any debt and if the other joint debtors do not join in his application.

Clause—We have revised this clause by including in it provisions for the filing of some more particulars in the statement of debt than were included in the original clause.

Clause—We have slightly modified sub-clause (2) to provide that notice of the Board's order shall be given to all persons whose names and addresses are given in the application.

A new clause (3) has been added providing that the applicant shall be examined on oath or affirmation and that the substance of such examination shall be recorded in writing by the Board. We consider that such a memorandum will be found useful in case of a revision or appeal against the order of the Board.

Clause—We have recast the first paragraph of sub-clause (1) to make the provision clearer. We have also altered the period during which the debtor or debtors shall submit a statement of debt under the sub-clause from months to one month as we think the latter period adequate.

In sub-clause (2) we have omitted the proviso and reproduced it as part of the proviso to sub-clause (3).

Sub-clause (3).—We have considered it desirable to include provisions for variation or revision of an order of the Board by review or on appeal. We have added a further proviso to cover the case where a Board has ceased to exist. The order under sub-clause (2) or sub-clause (3) may be varied or reversed by the Appellate Officer on application. In this sub-clause we have also provided for costs being allowed against the debtor if, and to such an extent as, the Board considers reasonable.

Clause 14.—In sub-clause (3) we have included the successor in interest of a debtor and have considered it desirable to include in it a provision that documents not submitted previously may be admitted as evidence later if it is proved to the satisfaction of the Civil Court that there were sufficient reasons for their non-production before the Board in the first instance.

Clause 17.—We have considered it desirable to omit the proviso to clause (b) in sub-clause (1).

We have inserted a general provision in clause 1(c) for the dismissal of applications when the Board is satisfied that the debtor is attempting to use the provisions of the Act with a view to defraud any creditor.

We have recast sub-clause (2) providing for dismissal of an application in case of transfer of any property by any debtor within two years previous to the date of such application with a view to defraud any creditor.

Clause 18.—The changes made in sub-clause (1) are with a view to make the intention clearer.

We have recast the proviso to provide that the decree of the Civil Court shall be conclusive evidence only as between the parties to the decree.

In sub-clause (2) we have included a provision that the Board before passing an order will hear the parties and consider the evidence produced.

In sub-clause (3) we have omitted the proviso as being undesirable.

The change in sub-clause (4) is merely verbal.

Clause 19.—We have omitted from clause (1) (a) the words "and may dismiss the application in respect of the remaining debts of the debtor" and from (1) (b) the words "and may dismiss the application in respect of the remaining debts" as being unnecessary.

We have modified sub-clauses (1) (b) and (1) (c) in such a manner that the provisions are to apply only when creditors, to whom is owing not less than forty *per cent.* or sixty *per cent.* of the total secured and unsecured debts, have agreed.

In the proviso to clause (1) (c) we have considered it desirable to add a provision that the terms are fair terms in the opinion of the Board.

Sub-clause (2).—We have omitted this sub-clause and reproduced it as new clause 21A which bars the application of clauses 19, 20 and 21 to debts due in respect of arrears of rent.

We have added an Explanation to this clause as to the meaning of the expressions "secured debt" and "unsecured debt."

Clause 20.—The change in paragraph 2 is to make the intention clearer.

Clause 21.—We have considered it desirable to revise clauses (1) (a) and (1) (b) giving power to the Board to reduce the debts of a debtor to such amount as may be paid within a period not exceeding twenty years and fixing the principle upon which each instalment is to be fixed. In case the Board considers it undesirable or impracticable to reduce the debt as above the Board shall specify what portion of the immovable property of the debtor (including not more than one-third or less than one acre of his land to be left as provision towards his maintenance) shall be excluded from the sale and what of the remainder shall be sold for the payment of the debt.

We have considered it desirable to include a new sub-clause (1a) authorising the Certificate-officer to sell the property of the debtor in the manner provided in the Bengal Public Demands Recovery Act, 1913.

Sub-clause (2).—In the proviso we have considered it desirable to include properties which are declared by a civil court or are discovered to belong to the insolvent debtor. The other alterations are verbal.

Clause 22.—The changes in sub-clauses (2) and (3) are consequential. We have omitted sub-clause (4) as unnecessary.

Clause 23.—We have inserted a new sub-clause (1) (a1) to provide for the inclusion of a list of the movable properties of the debtor on which there is a mortgage, lien or charge.

In sub-clause (1)(d) we have included a proviso regarding the payment of the amount according to the order specified in the proviso.

New clause 23A.—We have considered it desirable to make a special provision regarding the inclusion of arrears of rent (included in an award) in a suit instituted by the landlord for the recovery of the arrears of rent accruing during the continuance of the award.

We have also considered it desirable to give power to any creditor to whom any amount is due under the award to pay to the court arrears of rent to prevent the sale of the debtor's land in execution of rent decrees.

Clause 24.—The alteration in this clause is purely consequential upon the inclusion of new clause 24A.

Clause 24A.—We have considered it desirable to provide by this clause that the provisions of Chapter XIV of the Bengal Tenancy Act, 1885, shall apply to lands sold by a Certificate-officer under this Act.

Clause 25.—The change in sub-clause (1) is intended to provide for the case of joint-creditors. We have recast sub-clause (2) in order to give power to the Certificate-officer, in a case where he allows time to the debtor within which to pay any amount due under the award, to direct that a similar period of time shall be given to the debtor after the time fixed in the award for payment of any other amount payable thereunder.

Sub-clause (2a) repeats certain provisions of original sub-clause (2) of clause 25 as in the Bill as introduced.

We have recast sub-clause (3) to enable the Certificate-officer to sell only such portion of the property of the debtor as will be sufficient to pay all amounts payable under the award.

The changes in sub-clause (4) are consequential.

Clause 26.—The changes in sub-clause (1) are consequential. We have inserted a new sub-clause (1a) requiring the Certificate Officer to pay out of the distribution of sale-proceeds first any amount payable as costs of sale in execution of the Certificate. We have also revised sub-clause (1) (a) in view of the insertion of clause 24A.

In sub-clause (1) (b) the reference to a decree passed by a Civil Court has been omitted as being undesirable.

We have recast sub-clause (3) to make the intention clearer.

In sub-clause (4), we have omitted the opening reference to clause 21(2) as being unnecessary.

We have considered it desirable to add a proviso that in case the sale-proceeds are insufficient to meet the payment of the amounts payable under the award the Board may pass an order declaring the debtor to be an insolvent.

New clause 27A.—By this clause we have given an opportunity to the debtor to apply to the civil court to set aside an *ex parte* decree referred to in the proviso to sub-clause (1) of clause 18.

Clause 28.—The alteration made in this clause is to make the intention clearer.

Clause 29.—We have recast the proviso in view of the proviso added to clause 26(4). The other changes in this clause are purely verbal.

Clause 30.—In sub-clause (ii) we have considered it desirable to alter the period of six months to three months.

In sub-clause (iii) we have for similar reasons changed the "date of the signing of an award made" to "the date of an application under clause 9."

Clause 31.—The alterations are to make the intention clearer.

Clause 32.—The alterations are purely verbal.

Clause 33.—The alteration here is consequential upon the change made in sub-clause (1) (a) of clause 34.

Clause 34.—The change in sub-clause (1) (a) is to make the intention clearer. We have omitted sub-clause (1) (d) as being unnecessary.

In the proviso we have altered "an officer" to "a person" in order to enable the Local Government to appoint any person it considers suitable. The other changes are of a consequential character.

We have inserted a new sub-clause (1a) to provide that an appeal shall lie if made within thirty days.

In sub-clause (3), the addition is intended to provide that the appellant shall be given an opportunity of being heard.

A new sub-clause (7) has been added to prevent an appeal against a decision passed by the Board with the consent of the debtor and the creditor.

Clause 34A.—See the remarks under clause 8.

Clause 34AA. This new clause will give power to the Appellate Officer to give his opinion, advice or direction to a Board seeking the same.

Clause 36.—The small emendation in this clause follows the change made in clauses 33 and 34.

New clause 36A.—We have considered it desirable to bar the application of the Indian Evidence Act and the Code of Civil Procedure to proceedings before a Board. The procedure is to be laid down by rules to be made under the Act.

Clause 37.—We have recast this clause by omitting the reference to persons who are proclaimed touts as being unnecessary in view of the provision that the Board's permission is required before any agent can appear.

We have added a proviso authorising a son or husband of a party to appear before a Board even if he is a legal practitioner.

Clause 44.—We have considered it desirable to alter this clause to provide that an award shall be assignable in the manner prescribed by rules under this Act and not as a decree of a civil court.

Clause 45.—The alterations in sub-clauses 1(a) (b) and (2) are with the desire to guard against abuse and to make the intention clearer.

We have reduced the maximum penalty under this clause from seven years to three years.

Clause 46.—In sub-clause (c) we have included the Appellate Officer in order to enable his allowance to be fixed by rules. The other alterations in this clause are purely consequential, except that by the insertion of a new sub-clause (3), the power of making rules is subject to the condition that the rules are to be made after previous publication.

We recommend that the Bill, as reported on by us, be passed.

The official members of the Committee desire to make it clear that as the changes made in clauses 9, 14(3), 23A (b), 24A and 36A require the previous sanction of the Governor General, they are unable to accept responsibility for them in the absence of such sanction.

*K. NAZIMUDDIN,

Member-in-charge.

*F. A. SACHSE.

*H. P. V. TOWNEND.

M. A. MOMIN.

AMULYADHAN RAY.

MUAZZAM ALI KHAN.

K. C. RAY CHOWDHURY.

*N. K. BASU.

*S. M. BOSE.

*KHETTER MOHAN RAY.

*SAILESWAR SINGH ROY.

*ABDUL HAMID SHAH.

*ALIMUZZAMAN CHAUDHURI.

*SYED MAJID BAKSH.

W. C. WORDSWORTH.

NAGENDRA NARAYAN RAY.

*B. N. SINHA.

*A. M. PQDDAR.

*HAJI BADI AHMED CHOWDHURY.

*ABUL QUASEM.

TAMIZUDDIN KHAN.

J. W. MCKAY,

Secretary to the Bengal Legislative Council.

*Signed subject to his minute of dissent annexed.

NOTE.—The signature of Dr. Naresch Chandra Sen Gupta, Mr. H. S. Suhrawardy, Khan Bahadur A. F. M. Aldur Rahman, Khan Sahib Maulvi Mohammed Basliuddin s.l.c. Babu Hem Chandra Roy Choudhuri had not been received up to the time of publishing the Report.

Joint minute of dissent (by way of reservation) by the Hon'ble Khwaja Sir Nazimuddin, Mr. F. A. Sachse and Mr. H. P. V. Townend.

Government reserve the right to move any amendments to the changes proposed in the following clauses, after further consideration, viz:—

Clauses 2(a), 2(9), 9(7), 9A, 18(3), 19(1) (b) and proviso, 21, 23(1) (d), 23A, 24A, 25(2), 26(1) (a) and 34AA.

Minute of dissent by Mr. Narendra Kumar Basu, M.L.C.

I dissent from several of the provisions of the Bill as settled by the Committee.

When at the start of the proceedings, I asked the Hon'ble Member-in-charge if he could give us time or when the Bill came before the Council an idea as to the policy of Government in carrying out the measure, whether they were willing to find some money for the purposes of the Bill the Hon'ble Member declared that Government would not *advance any money* and was not prepared to give any financial help. That in my judgment is enough for the Council to throw the Bill out altogether. To provide for compulsion and not to provide any funds would in my opinion be tantamount to wrecking the whole system of agrarian and rural credit and to head straight for an economic revolution.

The official viewpoint was stated to be that creditors might be compelled but debtors not. If the debtor does not think it advantageous to come in for a settlement of the debts, he must not be compelled.

It is from this point of view that the provisions of clauses 9 (3) and 13 (3) have been framed.

I shall only mention here that the principal provisions to which I object are—

- (1) Clauses 3 (2) and 34—regarding the qualifications of the Chairmen of Boards having the compulsory powers and of the Appellate officers.
- (2) Clause 13 (3) and if that is retained the inadvisability and inconsistency of retaining clause 9 (3).
- (3) The retention of clause 20 and more specially the last sentence thereof postponing execution of a decree for ten years *even where there is no award*.
- (4) Clause 37 prohibiting the employment of lawyers before Boards which would exercise such wide powers as are contemplated.

I may mention that the opposition to my proposal for fixing the court-fees for applications by *debtors* under clause 9 at a nominal figure throws the intentions of the Government and its supporters into strong and lurid relief. One wonders if leaving everything to the executive even in fiscal matters would be tolerated in any other atmosphere. I am sorry that for personal reasons I am unable to make this note as full as I had intended but I reserve liberty to move amendments to the clauses not mentioned herein, in Council.

Minute of dissent by Mr. S. M. Bose, M.L.C.

In this note of dissent I shall only deal with certain general questions of principle, matters of detail being left to be dealt with by amendments at the proper time.

2. **Clause 3(2).**—In the case of Boards exercising powers under clause 7, it is very necessary that the Chairman, at any rate, should be an experienced judicial officer of at least ten years' standing. The Board may have to deal with difficult questions of civil law, and the Chair should have a thorough knowledge of such law. Under the Central Provinces Debt Conciliation Act, as appears from a report in the *Statesman* (Dak Edition, dated 24th October last) a Conciliation Board has been established at Sohagpur under the Chairmanship of a Sub-Judge. It is to be remembered that under the Central Provinces Act, debt conciliation is on an entirely voluntary basis, and even then, a judicial officer has been appointed Chairman. The argument that there are not enough judicial officers for the purpose is unsound, as the work of the civil courts will be very greatly diminished when this Act comes into operation. It is also possible as in the Central Provinces, for the Government to establish two Boards with a common Chairman. In any event, the qualifications of the Chairman should be laid down in the Act itself, and not left to be regulated by rules. Further, the services of retired judicial officers may be availed of.

3. **Clause 13(3).**—This clause says that if on the application of a creditor, notice is issued on a debtor calling upon him to submit a statement of his debts within one month, and if he fails to do so, the creditor's application is to be dismissed. This is against all principles of justice and equity, and the clause should be deleted. Under clause 9, either the debtor or the creditor may apply to the Board for debt-conciliation.

If the debtor applies, and the creditor fails, after notice, to submit a statement of debt, then under clause 13(2) the amount stated in the debtor's application is to be taken as correct, and no debt of which the creditor has failed to submit a statement (unless admitted by the debtor) is to be payable. But in the case of the creditor's application, if the debtor defaults, the application is to be dismissed. In all fairness, in such a case, the amount stated in the creditor's application should be taken as correct, on the analogy of clause 13(2). There are only two alternatives on principle. Either the creditor should not be allowed to apply at all under clause 9; or if he is allowed, then the same rule should prevail as in the case of the debtor's application.

The principle embodied in this sub-clause is reminiscent of archaic law where the plaintiff had to drag the defendant to the court before the court would assume jurisdiction in the matter.

4. **Clause 20.**—This, to my mind, is the most objectionable clause in the whole Bill and should be entirely omitted or radically modified. It negatives the principle underlying clause 19, namely, that where a large proportion of the creditors agree (40 per cent. or 60 per cent. as the case may be), and the offer seems fair to the Board, then the composition may be put through and gentle compulsion applied to the other creditors. It is understood that it is not the intention of the Government to enforce absolute compulsion, but clause 20 in effect compels the creditors to accept whatever terms are considered fair to the Board (even though not a single creditor accepts them) for otherwise their claims cannot be enforced for many years (the period of postponement may extend upto 20 years) which means practically that their claims cannot be enforced at all. If the object of the Government be to enforce naked compulsion then clause 19 is superfluous, and the Bill might then consist of a single clause 20. Attention is invited to section 20 of the Punjab Act of 1934, which provides for a certificate being given by the Board to a debtor in respect of a debt where the terms offered are (1) considered fair by the Board, and (2) are accepted by creditors holding 40 per cent. or more of the total debts. Attention is also invited to the Report of the Commission appointed to consider the question of agricultural indebtedness in the Protectorate of Zanzibar which was presided over by the Chief Justice of the Protectorate. The main step suggested in the Report was the adjustment of debts by amicable settlement through Conciliation Boards similar to those established under the Central Provinces Act and the Punjab Act. The Zanzibar Commission recommended that a Conciliation Board should consist of a Resident Magistrate, an Indian and an Arab, and should have the power to impose on the parties any adjustment which is acceptable to the debtor and to 60 per cent. in value of his creditors. In any event, the provision at the end of the clause that even if there is no award, the creditor's claim may be postponed upto ten years, is inequitable, and against all principles. Arbitrary power is given to the Board, which may instead of making an award, penalise a particular creditor by imposing an offer on him at its entire discretion, without any reference to the views of the creditors, be they secured or unsecured, and if he does not agree, his claim is postponed for a period upto ten years. There is no justification for this.

5. **Clause 27.**—Joint-stock Banks and Co-operative Societies should be placed exactly on the same footing, as both lend out money received from depositors. There is no exemption under the Punjab Act or under the Central Provinces Act of co-operative societies from the scope of these Acts; in fact, Central Provinces Act expressly includes such societies within the definition of a creditor. The rate of interest to be allowed may be prescribed as originally proposed in clause 2(8) (vii) of the Bill when introduced in the Council.

6. **Clause 34(1)—Appellate Officer.**—The qualifications of this officer should be laid down in the Act itself. It is very necessary that he should be an experienced civil judicial officer of several years' standing, and not below the rank of a Subordinate Judge. Retired judicial officers with this qualification should be eligible. Reference is invited to the remarks made in paragraph 2 above.

7. **Clause 37.**—There is no reason why legal practitioners should not be allowed to appear at any rate before Boards having power under clause 7 of the Bill, and before the Officer appointed under the proviso to clause 4. Intricate questions affecting the rights of various parties will have to be considered by them and lawyers will be of great assistance.

Minute of dissent by Babu Khetter Mohan Ray, M.L.C.

I still adhere to my view that the rent should not be included within the purview of this Bill. Rent is payable by instalments and generally rents are not sued for till the arrears are about to be barred, i.e., on the eve of expiry of the 4th year, thus the tenants have sufficient opportunities to pay by instalment. If further instalments are allowed for payment of arrears of rents and rent decrees, it will be very difficult for the landlords to pay revenue and rents to the superior landlords.

2. Joint-stock Banks should not be included in the Bill. These Banks are public Banks registered under the Company's Act. Several crores of rupees have been invested in these Banks by the public by way of share capital and deposits.

If these Banks are included, it will hit hard the general credit and trade and commerce of the country. Most of these Banks are financing trade and industry as well as agriculture.

3. In the Bill itself no provision has been made as to personnel of the Board. These Boards will be called upon to decide important questions of facts and sometimes of law. Village people such as we generally find in the Union Boards should not be appointed members of the Boards. From our experience of the Union Boards, we are of opinion that the constitution of the Boards should avoid this class of persons who are very often amenable to the influence of village factions and other undesirable influences. These Boards should be presided over by persons having judicial experience, who should be paid by fees, if non-official. The Board should sit at the headquarters of a subdivision. Lawyers should be allowed to appear. I do not see any reason for excluding lawyers from the Board. Appearance of lawyers will check many irregularities, illegalities and even corrupt practices.

4. There are stringent provisions in various forms to compel the creditors to appear before the Board on the application of the debtor and after his appearance, if he refused to accept terms offered by the debtor which in the opinion of the Board are fair, harsh and inequitable provisions are made in the Bill for punishing the creditor for his refusal. But there is no provision to compel the debtor to appear before the Board on the application of the creditor and have the debt settled. This is one-sided arrangement. I am of opinion that similar provisions should be made to compel the debtor to appear before the Board. The question of losing revenue on account of court-fees should not enter into consideration in providing compulsory measures for appearance of the debtor on the application of the creditor. For, the effect of the passing of the present Bill will have the effect of decreasing revenue on court-fees.

To my mind, legislation should proceed on the voluntary basis as in the Central Provinces. In order to make the debt conciliation successful without injuring rural credit, compulsory provisions should be omitted.

The Appellate Officer should in all cases be the District Judges or his Subordinate Officers to whom he may delegate his powers. Executive officers should not be appointed Appellate Officer.

Clause 20.—Provision for granting certificate should be omitted. At least in cases decided under clause 19 (I) (a) clause 20 should not be made applicable.

When the debt can be settled at any amount, it is not necessary to retain provisions for insolvency. These provisions do not exist in similar Acts, passed in other provinces. I am of opinion, clauses 21 and 22 should be deleted. Other objections will be preferred by way of amendments to the Bill.

Minute of dissent by Mr. Saileswar Singh Roy, M.L.C.

I beg to submit the following note of dissent on the report of the Select Committee on the Bengal Relief of Indebtedness Bill, 1935:—

1. **Clause 3(2).**—In the case of Boards exercising powers under clause 7, the Chairman should be an officer of judicial experience of not less than 10 years, and not below the rank of a senior Munsif. The Chairman's qualifications should be provided in the Act itself, and not left to rules.

2. **Clause 13(3).**—This clause should be deleted. Under clause 9, either the debtor, or the creditor may apply under this Act to the Board. If the debtor applies and the creditor fails to comply with the notice to supply a statement of debt, then the amount stated in the debtor's application is to be deemed correct, and no debt excluded from the creditor's statement is to be payable. But in the case of the creditor's application, it is to be dismissed if the debtor defaults. This is against all principles of equity. In such a case, the amount stated in the creditor's application should be taken to be correct, on the lines of clause 13(2).

Either the creditor should not be allowed to apply at all, or if he is so allowed, the same rule should prevail as in the case of the debtor's application.

3. The provisions of clause 14(3) and clause 31(b) seem to be rather contradictory. Clause 31 should be re-drafted in the light of clause 14(3) to remove any further controversy on the point.

4. **Clause 20** should be entirely omitted or radically altered. This clause negatives the principle underlying clause 19, namely, where a large proportion of the creditors agree (40 per cent. or 60 per cent., as the case may be), and the offer to the Board seems fair, then the composition may be put through, and gentle compulsion may be applied to the other creditors. It is understood that it is not the intention of Government to enforce absolute compulsion but clause 20 is in effect intended to compel the creditors to accept whatever terms are considered fair by the Board, for otherwise their claims cannot be enforced for many years (the period of postponement may extent up to 20 years). If the policy of Government is to enforce out and out compulsion, clause 19 is meaningless. In any event, the provision at the end of clause 20 that even

if there be no award, the creditor is to be postponed for a period up to ten years is inequitable and is opposed to all principles of law. This is the most objectionable clause in the whole Bill.

5. **Clause 34(1)—The Appellate Officer.**—His qualifications should be prescribed in the Bill. It is very necessary that he should be one with considerable judicial experience and not below the rank of a Subordinate Judge either in service or retired.

6. **Clause 37.**—There is no reason why legal practitioners should not be allowed to appear at any rate before the Appellate Officer. Intricate questions affecting the rights of parties have to be settled by such tribunals, and lawyers will be of considerable help to them. The bar should therefore be removed.

Constituted Attorneys of parties irrespective of the fact whether they are lawyers or not, should be allowed to appear before the Board having powers under clause 7 of the Bill and also before the Appellate Officer.

Minute of dissent by Maulvi Abdul Hamid Shah, M.L.C.

I signed my name with the note of dissent on the clauses 27 and 37, which I shall put forward as amendments in the discussion in the Council.

Minute of dissent by Khan Bahadur Maulvi Alimuzzaman Chaudhuri, M.L.C.

Owing to my illness I could not attend the Select Committee meeting. I reserve my right to place amendments at the time of reconsideration of the Report.

Minute of dissent by Maulvi Syed Majid Baksh, M.L.C.

I sign the Report of the Select Committee of the Bengal Relief of Indebtedness Bill, 1935, subject to the following note of dissent.

The provision to make the sureties jointly liable to the fullest amount of debt although the share of debt of a debtor is reduced is unjust because it may be in many cases the sureties out of a disinterested motive and merely to help a debtor lent his name to the joint debt. In such a case it would be too harsh to penalise a surety. Hence to clause 9A (1) a further sub-clause (c) should be added for the protection of such sureties as mentioned above. Moreover, if the share of debt of an agriculturist is reduced, the others should not be saddled with more than their share. Clause 2 (8) (iv) (b) is ambiguous. It is not clear what sort of arrears of rent is meant. It should be cleared up by an amendment.

Clause 17 (2) (b) is unnecessarily harsh on the debtor because there may be such cases where the debtor not knowing that the Bengal Agricultural Debtors Act is coming to existence may have made a transfer of the property for self-protection. Such cases should be provided for.

In clause 19A there should be provision that the decision of the Board shall be final.

The exclusion of three *bighas* of land for the maintenance of an insolvent debtor should be in addition to his homestead.

Minute of dissent by Raja Bahadur Bhupendra Narayan Sinha, of Nashipur, M.L.C.

So far as the object of the Bill is concerned it is laudable. We appreciate the motive which has inspired the Government to introduce the Bill and to take up this vital question of the province. We cannot but be thankful to the authorities for recognising the necessity of tackling this problem of Rural Indebtedness.

But the methods that have been adopted are likely to be of doubtful utility. The Hon'ble Member has cited the case of Bhawnagore State. Amongst other measures adopted to relieve the debt-oppressed *khedu* (agriculturist), the Bhawnagore Durbar sanctioned a debt redemption scheme depending for its application on the voluntary co-operation of the *sowcars* (money-lenders) and the indebted *khedu*. But the Durbar was not satisfied by merely passing a new law, but as a measure of practical relief, the Durbar had sanctioned some money to pay off the debts. The nominal outstanding arrears shown as owing by *khedus* in *sowcars*' books amounted to Rs. 86,38,000, and the same have been compounded and compromised under the scheme by the Durbar, paying on behalf of the indebted *khedus* Rs. 20,59,000. This is the practical way of solving this great problem of problems. If the Government want to give the full benefit of the Bill to the indebted agriculturists they must provide a loan from the Government of India at the usual interest of 3 per cent. and then they can lend the money to the agriculturists by way of settling their debts, at a higher rate of interest. If the loan from the Government of India cannot be secured, the next course would be to organise

rural banks in each subdivision which can advance money on the security of the landed property. But mere passing of the Bill will not achieve the object fully and successfully.

It is further admitted that the Chandpur Boards had success. But there is much difference between the method adopted at Chandpur, and the one provided in the Bill. Three types of Boards are proposed to be set up under this Bill. But only the first type resembles the Boards as set up at Chandpur subdivision whose duty had been to amicably settle debts on the lines of the Central Provinces and the Punjab Boards. The power of compulsion given to the other Boards is admittedly wider than what was recommended by the Board of Enquiry. Secondly, the Chandpur Board has selected a few cases, whereas the Bill would apply to all without exception. So these factors should be considered seriously before we launch the Bill.

I would like to make a few observations with regard to some of the clauses.

Rent should not be included within the purview of the Bill. Ever since the permanent settlement and the passing of the Bengal Tenancy Act of 1885, rent has been enjoying a special form of sanctity, and the civil courts are not empowered to allow instalments in decree for arrears of rent. The inclusion of arrears of rent can only be considered as a measure of temporary emergency and not as a permanent one. In the Central Provinces and the Punjab Acts arrears of land revenue are excluded. If the analogy of the Central Provinces and the Punjab Acts are strictly followed in all their implications, the claim for arrears of rent to be excluded from the category of debt becomes irresistible.

In the award some provision should be made for the payment of current rent. From the standpoint of debtor this should be done. If no provision be made, naturally the debtor will make default and his holding is liable to be sold and the object of the Bill will be frustrated.

A certificate as to the satisfaction of the arrears of rent due by a debtor should be a condition precedent to the granting of an award at the instance of the debtor or creditor as recommended by the Enquiry Committee.

Under clause 13, if any creditor fails to comply with a notice under sub-clause (1), the Board will declare that "the amount of any debt due to him from a creditor on the date of such order shall, for the purposes of this Act, be deemed to be the amount stated in the statement of debt submitted by the debtor, and that no debt of which the creditor has failed to submit a statement, other than a debt which the debtor has included in his statement of debt, shall be payable;"

"and such order shall not be questioned in any civil court or in any manner."

"If any debtor fails to comply with a notice under sub-section (1), the Board shall dismiss the application."

There should not be an invidious distinction between a debtor and a creditor.

Clause 2(8)(III) brings rent accruing after the filing of the application till the date of determination within the definition of debt. This will directly interfere with the collection of rent, as the time between the application and the date of determination will necessarily be a long one and the debtor will naturally withhold payment of such rent on the ground that it will form part of the award. So some provision should be made to realise rent which has not been mentioned in the application during the pendency of the application.

In clause 2(8)(III) after the word "when" the following words be added, namely, "An application is made under section 9 or 9A" and the words "A Board determines the amount of debts under section 18" be deleted.

In clause 9(6) in the last line the words "Sub-section (2) of" be deleted.

In clause 13(3) substitute the word "Shall" for the word "May."

In clause 18, the following proviso be added after sub-clause (4):—

"Provided that if a debtor does not pursue the application after such determination, the Board shall, upon the application by a creditor, make an award for the entire amount so determined or else such determination of debts will cease to subsist and the parties will be relegated to the original position."

At the end of clause 20 the word "Two years" be substituted for "Ten years."

At the end of clause 22 the following explanation be added:—

"The words 'unsecured debt' in this clause have the same meaning as in the explanation under clause 19."

● **Clause 28.**—At the beginning of the clause add the following words:—

"Except as provided for in section 23A."

At the end of the clause 31(b) add the following:—

"Unless it is proved to the satisfaction of the civil court that there were sufficient reasons for non-production of the documents before the Board."

Minute of dissent by Mr. Ananda Mohan Poddar, M.L.C.

I send my note of dissent on some of the provisions of the Bill as settled by the Select Committee. I reserve the right to deal with the other provisions at proper time.

Public opinion as we find in the circulated papers is strongly against the various provisions of the Bill. Before introducing a measure comprising so many important changes in the existing civil law, it would have been proper if the opinion of the Hon'ble High Court, the highest Judiciary in the land, as well as of the District Judicial Officers, had been ascertained. This should be done even at this stage and before the Bill is put on the Legislative anvil.

The Government would have done better if it had examined the recommendations of the Central Banking Enquiry Committee regarding debt conciliation and ascertained how far the Government are in a position to act in accordance with these recommendations. I would quote a few observations made by the said Committee in this connection:—"The general experience recorded in all these provinces has been that any scheme of debt conciliation could not succeed until adequate organisation for carrying out debt clearance has been built up, and unless some agency like the Government or the co-operative credit societies or land mortgage banks where they exist is forthcoming to make cash advance to the debtors, in order to enable them to pay the compound debt, at least in part, to the creditor. The Central Provinces Committee are satisfied that many creditors would readily agree to accept in full satisfaction of their dues considerably less sums if paid down in cash. They also express the hope that the District Development Boards and those assisting in the campaign of rural reconstruction would be able to help in evolving a scheme of debt redemption. The Punjab Committee report that their evidence leads them to believe that in many cases the money-lender is finding recovery increasingly difficult and is more disposed than ever before to compound his claims. It is thought, they say, that he would agree to substantial reductions if he were given an assurance that the amount finally settled would be repaid by a fixed date without further effort on his part; and it is suggested that the best way of giving him this assurance would be to allow him to transfer his debt, or such part of it as could not be paid at once, to the co-operative society as a deposit which would be repayable *pari passu* with the instalment fixed for the debtor, subject to a maximum period of, say, ten years." (Paragraph 90 of the Report.) It is the duty of the Government to give effect as far as possible to the recommendations of the Committee set up by the Government for the purpose. So far as we have been able to ascertain from the Hon'ble Member in charge of the Bill, the Government of Bengal are not prepared to shoulder any financial responsibility for the successful working of the proposed Act. This makes me very diffident as to the success of debt conciliation measures in Bengal.

The Government of Bengal in asking the creditors to make sacrifice in order to give relief to the debtors are themselves keeping aloof and refuse to find out money for the purpose. This is simply to rob Peter to pay Paul. I am sorry to have to observe that this attitude of the Government will kill the rural credit of Bengal.

Clause 1, sub-clause (3).—The Bill being an emergency measure, the duration of its application should be restricted accordingly. It should be provided that the Act shall remain in force in a notified area for a limited period only.

Clause 2, sub-clause (8).—I object to the inclusion of a decree or order of a Civil Court to the definition of debt except for the purpose of Clause 19 (1) (a), i.e., for amicable settlement.

Clause 2, sub-clause (8) (ii).—Debt incurred by an agriculturist for the purpose of trade should not be included in the definition of debt. I want to retain the original sub-clause (8) (i).

Clause 3.—The Boards should be established in district towns and at the subdivisions and not in the interior. In these days of easy communication there would be little or no difficulty for the parties to attend such Boards in towns. This will prevent the parties from falling into the clutches of the village touts. If the Boards are situate in the towns away from the rural areas they will be free from any local influence that may be exercised upon them for either party, whereas on the other hand, if they require, they may avail of legal help or of the help from the intelligentsia of the town.

Clause 3, sub-clause (2).—It is nowhere suggested in the Bill that the Chairman or the members of the Board will be men of judicial or legal experience. Many intricate questions of law arise in rent suits and mortgage suits as well as on suits on promissory notes. The Bill as a whole proposes to oust the civil courts of their jurisdiction in these days when people cry hoarse for the separation of executive and judicial functions. It is certainly undesirable to divest the civil courts of their jurisdiction and to place civil matters in the hands of laymen or executive or revenue officers who are generally devoid of legal training. The contemplated Boards that will be vested with arbitrary powers may not be immune from abuses that are rampant in union courts in rural areas. For these reasons, the Chairman at least should be a person with some judicial experience, and the qualifications of the Chairman should be laid down in the Act itself, and not left to be regulated by rules.

Clause 12.—The manner of serving the notice should be embodied in the Act itself and should not be left for rules. The notice must be by registered post under this clause as well as under clauses 13 and 23.

Clause 13, sub-clause (3).—Under clause 9 either the debtor or the creditor may apply to the Board; in the case of the creditor's application if the debtor defaults, the application is to be dismissed; but in the case of the debtor's application, if the creditor defaults, the latter will be made to suffer inasmuch as under clause 13(2) the amount stated in the debtor's application is to be taken as correct.

This is against all principles of equity or justice. If you allow the creditor to apply, then in all fairness, the same rule should be allowed to prevail and if the debtor defaults, the amount stated in the creditor's application should be taken as correct on the analogy of clause 13(2).

I strongly object to this sort of discrimination.

Clause 19.—This clause provides for the settlement of debts either amicably or otherwise. So far as the settlement is amicable or agreed there is nothing to object to. But this clause contemplates compulsion inasmuch as the non-agreeing creditors can be made bound by the terms offered by the debtor under certain conditions. The compulsion introduced under sub-clauses (b) and (c) of this clause should be made milder by providing the percentage referred to in clause (b) to be at least fifty per cent. and in clause (c) seventy-five per cent. instead of forty per cent. and sixty per cent. respectively.

Clause 20.—The grant of certificate under this clause is intended to penalise the recalcitrant creditor. It negatives the principle of the milder form of compulsion provided under clause 19(1) (b) and (c) inasmuch as it gives the Board most arbitrary powers by which an offer may be imposed upon the creditor at its discretion without any reference to the views of the creditor and if he does not accept that offer his claim is postponed up to ten years. It means that under the threat of the infliction of clause 20 the creditor will be made to agree to the terms offered by the debtor or by the Board, as the case may be. This is out and out compulsion without any restriction and is a most objectionable clause in the whole Bill and with this retained, the colour of conciliation is gone.

It should be deleted.

Clause 21.—Not only the dwelling house of the insolvent debtor will be exempted from sale but immovable property to the extent of not more than one-third or less than one acre of land shall be exempted for his maintenance.

Provision of this nature is not justifiable. There is no such provision under the ordinary law of insolvency. Its inclusion will only defeat the object of insolvency procedure and with this safeguard the debtor will readily welcome insolvency.

Even if this is to be retained, it should not be more than one-third which in no case would exceed one acre of land.

Clause 27.—Joint stock banks and co-operative credit societies should be placed exactly on the same footing, as both lend out money received from the depositors.

Clause 34 (1).—The qualification of Appellate Officer should be laid down in the Act itself. It is necessary that he should be an experienced judicial officer not below the rank of a Subordinate Judge.

Clause 37.—The legal practitioners will be debarred from appearing before the Board and the Appellate Officers. Intricate questions affecting the rights of various parties will have to be considered by the Board and the Appellate Officers and the lawyers will be of great assistance to them. Without the help of the lawyers, the parties will not be properly represented and the door will be wide open to village touts.

Clause 46.—The Bill leaves many things with the Local Government under the rule-making clause. The functions of the Legislature should not be usurped in this way. This is undoubtedly very drastic as placing the rights of the creditors and debtors at the discretion of a few executive officers of the Local Government.

Minute of dissent by Haji Badi Ahmed Chowdhury, M.L.C.

Clause 1 (2).—It should extend to the whole of Bengal; if Calcutta is to be excluded, I suggest that other municipalities should also be excluded.

Clause 3 (1).—The Local Government may by notification establish at least one or more Debt Settlement Boards in each of the thanas.

(2) Of the four members to be appointed two must be non-official—one district board or local board member who is elected by the agriculturists, creditors, debtors and others.

Clause 21(1) (b).—Before passing orders for sale of two-thirds of immovable properties the consent of the debtor should be obtained; if no consent be given, Board should order for repayment of his debts by sale of half of the produce of his properties.

Minute of dissent by Maulvi Abul Quasem, M.L.C.

I do not agree with all the provisions contained in clause 9A (2), particularly the proviso. An agricultural debtor is being granted relief all right but the person, a non-agriculturist, who by standing surety for him helped him to get a loan and tide over his difficulty, is being left to shift for himself. The creditor will proceed against him and realize all his dues from him but he (the surety) will never be able to reimburse himself for what he will have to pay on account of the principal debtor. The curious and unfortunate result will be that the man who befriended the agricultural debtor when he was in dire need of money will be penalised. This is, to say the least, most unfair. The Bill is designed to help the agricultural debtor, not to punish his friends in need. I am strongly of opinion that the relief which is being granted to the debtor should be extended to his surety also.

The other points on which I differ from the recommendations of the Select Committee-I will bring up in the Council in the shape of amendments.

**THE BENGAL [RELIEF OF INDEBTEDNESS] AGRICULTURAL
DEBTORS BILL, 1935.**

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**THE BENGAL [RELIEF OF INDEBTEDNESS]
AGRICULTURAL DEBTORS BILL, 1935.**

*(Embodying amendments recommended by the Select
Committee.)*

[NOTE.—All matter omitted by the Select Committee has been printed in italics and enclosed in square brackets and all new matter inserted has been underlined.]

A

BILL

*to provide for the relief of indebtedness of agricultural debtors
in Bengal.*

WHEREAS it is expedient to provide for the relief of indebtedness of agricultural debtors and to amend the law governing the relations between agricultural debtors and their creditors;

AND WHEREAS the previous sanction of the Governor General has been obtained under sub-section (3) of section 80A of the Government of India Act to the passing of this Act;

5 & 6 Geo.
V, c. 61;
6 & 7 Geo.
V, c. 37;
9 & 10
Geo. V, c.
101.

It is hereby enacted as follows:—

Short title,
extent and com-
mencement.

1. (1) This Act may be called the Bengal [*Relief of In-
debtedness*] Agricultural Debtors Act, 1935.

(2) It extends to the whole of Bengal except Calcutta as defined by clause (11) of section 3 of the Calcutta Municipal Act, 1923.

[*Cf. Ben.
Act XV of
1932,
s. 1(2).]*
Ben. Act
III of 1923.

(3) It shall come into force in such areas on such dates as the Local Government may, by notification, direct.

[*Cf. Ben.
Act XIV
of 1935,
s. 1(3).]*

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) "agriculture" includes horticulture and dairy farming and the use of land for any purpose of husbandry inclusive of the keeping or breeding of livestock, poultry or bees and the growing of fruits, vegetables and the like;

(2) "amount payable under an award" means an amount included under clause (c) of sub-section (1) of section 23 in an award as payable by a debtor in respect of any debt, or any part of such amount which remains unpaid, together with any interest on such amount or part thereof which is due under the award.

(3) "Appellate Officer" means an officer appointed under section 34;

The Bengal [Relief of Indebtedness] Agricultural Debtors Bill, 1935.

(Clause 2.)

(4) "award" means an award as made by a Board under sub-section (3) of section 19 or sub-section (3) of section 21, or as confirmed or modified by an Appellate Officer under sub-section (4) of section 34 ;

(5) "Board" means a Debt Settlement Board established under sub-section (1) of section 3, and includes a Collector authorised or an officer [person] appointed under the proviso to section 4. [Cf. C. P. Act II of 1933, s. 2 (c).]

(6) "Certificate-officer" means a Certificate-officer as defined in the Bengal Public Demands Recovery Act, 1913; Ben. Act III of 1913.

(7) "Collector" includes any officer appointed by the Local Government to exercise any of the powers of a Collector under this Act ;

(8) "debt" includes all liabilities of a debtor in cash or in kind, secured or unsecured, whether payable under a decree or order of a Civil Court or otherwise, and whether payable presently or in future, but does not include the following :— [Cf. C. P. Act II of 1933, s. 2 (e).]

(a) any amount the liability for the payment of which is only contingent ;

[(i) any debt incurred for the purpose of trade,

(ii) any amount due as arrear of wages,]

(iii) any rent not due at the time when a Board determines the amount of debts under section 18,

(iiia) any share of the produce of land payable on account of land cultivated under the system known as adhi, barga or bhag ;

(iv) any amount recoverable as a public demand, except an amount referred to in sub-section (1) of section 25 and arrears of rent payable on account of the use or occupation of land held by a tenant,]

(v) any amount recoverable as a public demand, except—

(a) an amount referred to in sub-section (1) of section 25, and

(b) arrears of rent payable on account of the use or occupation of land held by a tenant,

(v) any amount a suit or application for the recovery of which is barred by limitation ; or

[(vi) any debt due to the Imperial Bank of India ; or

(vii) any debt chargeable with interest at a rate not exceeding the prescribed rate which is due to any banking company registered under the Indian Companies Act, 1913, or any other law for the time being in force in British India relating to companies ;]

(va) any debt due to any bank included in the second schedule to the Reserve Bank of India Act, 1935 ; II of 1935.

(9) "debtor" means a debtor whose primary means of livelihood is agriculture, whether he cultivates with his own hands or not and if any question arises in connection with proceedings before a Board under this Act whether the primary means of livelihood of any person is agriculture or not the decision of the Board shall be final ; [Cf. Pun. Act VII of 1934, s. 7 (2).]
[Cf. Ben. Act VI of 1930 ; s. 3.]

The Bengal [Relief of Indebtedness] Agricultural Debtors Bill, 1935.

(Clauses 3—4.)

(9) "debtor" means a debtor whose primary means of livelihood is agriculture and who—

(a) is a *raiyat* or an *under-raiyat*, or

(b) cultivates land himself or by members of his family or by hired labourers or by *adhiars*, *bargadars* or *bhagdars*;

and includes a group of persons who join in making an application under the provisions of sub-section (1) of section 9A.

(10) "loan" means a loan whether of money or in kind, and includes any transaction which is, in the opinion of a Board, in substance a loan; [Cf. Pun. Act VII of 1934, s. 2 (2).]

(11) "notification" means a notification published in the *Calcutta Gazette*;

(12) "prescribed" means prescribed by rules made under this Act;

(13) "settlement" includes an amicable settlement and a settlement or adjustment made by order of a Board.

(14) "supplementary income" means any income derived by the debtor from any source other than agriculture;

(15) "total debt" means the sum total of all debts as determined under section 18;

(16) the expressions "landlord," "*raiyat*," "*under-raiyat*" and "rent" have the same meanings as in the Bengal Tenancy Act, 1885. VIII of 1885.

Establishment of Debt Settlement Boards.

3. (1) The Local Government may, by notification, establish one or more Debt Settlement Boards for any local area specified in the notification.

(2) Each Board shall consist of a Chairman and [subject to the provisions of sub-section (1) of section 8,] of not more than four other members, to be appointed by the Local Government. [Cf. Pun. Act VII of 1934, s. 8 (1)(d).]

Power of Local Government to cancel appointments of Chairman and members of, or to dissolve, a Board.

4. The Local Government may, at any time, for reasons to be recorded, in writing, cancel, by notification, the appointment of the Chairman or of any other member of a Board or dissolve any Board:

[Provided that, when a Board is dissolved, the Collector shall exercise, for the purpose of completing any work begun by the Board, such of the powers exercised by the Board as may be determined by the Local Government.]

Provided that when a Board is dissolved and it is not advisable in the opinion of the Local Government to appoint another Board forthwith, the Local Government may authorise the Collector to exercise such of the powers of the Board as may be determined by the Local Government except the power of making an award which may be exercised by an officer who has had judicial experience to be appointed by the Local Government for this purpose.

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(Clauses 5—9.)

Delegation of power to Commissioner.

5. The Local Government may, by notification, delegate its powers under sections 3 and 4 to the Commissioner.

Tenure of office.

6. The Chairman and the other members of a Board shall be appointed for a term of not more than three years, but shall be eligible for reappointment.

[Cf. Pun. Act VII of 1934, s. 8 (1) (e).]

[Commissioner] Local Government may invest Boards with certain powers.

7. The [Commissioner] Local Government may, by notification, from time to time, empower a Board to exercise all or any of the powers under [section 8,] sub-section (2) of section 9A, sub-section (2) of section 13, clause (b) or clause (c) of sub-section (1) of section 19, section 20 or sub-section (1) of section 21, and unless so empowered a Board shall not exercise any such powers.

[Certain Boards may withdraw applications from other Boards.]

8. (1) Subject to rules made under this Act, a Board if it is so empowered by a notification under section 7, may withdraw applications from any other Board specified in such notification, and may co-opt for the purpose of considering any such application two members of the Board from which it is so withdrawn.

(2) A Board, when it withdraws under sub-section (1) an application from another Board, may continue the proceedings in connection with the application from the stage which has been reached when the application is withdrawn.]

Application for settlement of debts.

9. (1) Subject to the provisions of section 9A [A] a debtor may make an application for the settlement of his debts to [the] a Board established for the local area within which he ordinarily resides. [or, if no Board has been established for that local area, to the Board established for any local area in which he holds immovable property but he shall not so apply to more than one Board.]

[Cf. C. P. Act II of 1933, s. 4(1).]

[(2) If an application made by a debtor has been disposed of, the Board shall not entertain any further application from such debtor within two years of the date of the disposal of the first application.]

[Cf. Pun. Act VII of 1934, s. 15.]

(3) Unless the debtor has already made an application under sub-section (1) any of his creditors may make an application to a Board to which the debtor might have applied under that sub-section.

(4) If applications are made [by creditors] to more than one Board in respect of the debts of the same debtor, such applications shall, [in accordance with] subject to rules made under this Act, be transferred to and dealt with by one Board.

(5) No objection as to the place of presentation of the application shall be allowed by the Appellate Officer unless such objection was taken, at the earliest opportunity, before the Board to which the application was made and unless there has been a consequent failure of justice.

(6) A Board may for good and sufficient reason entertain a further application in respect of any debt incurred before the date of a first application under sub-section (1) or sub-section (3) except when such application under either of the said sub-sections has been dismissed under sub-section (3) of section 13 or sub-section (2) of section 17.

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(Clauses 9A—11.)

(7) A Board shall not entertain any further application for the settlement of any debt which has been incurred by a debtor (including any rent which has become due) after the date of application under sub-section (1) or sub-section (3).

Application for settlement of joint debts.

9A. (1) An application may be made under sub-section (1) of section 9 for the settlement of—

(a) an ancestral debt for which two or more persons are jointly liable if one of such persons is a debtor within the meaning of this Act, and they all join in making such application, or

(b) a debt for which two or more persons are jointly liable if every such person is a debtor within the meaning of this Act and they all join in making such application,

and the Board may pass orders under section 19, 20 or 21 regarding any debt to which such application relates.

(2) If a debtor within the meaning of this Act is jointly liable with other persons for any debt other than a debt for arrears of rent such debtor may make an application under sub-section (1) of section 9 for relief in respect of his liability in regard to such debt, and the Board, after consideration of the facts and circumstances of the case, may, if so empowered under section 7, pass such order as it thinks fit under section 19, 20 or 21 regarding the debt so far as such applicant is concerned and such order of the Board shall not be questioned in any Civil Court or in any manner other than that provided in this Act :

Provided that an order of the Board under this sub-section shall not affect the liability of any other person who is jointly liable with the debtor for the debt, but in no case shall the creditor to whom the debt is due be entitled to realize more than his actual dues from any such person.

Form and verification of application.

10. Every application under section 9 shall be in writing in the prescribed form and shall be signed and verified in the prescribed manner. [Cf. C. P. Act II of 1933, s. 5.]

Statement of debt to be included in application.

11. (1) An application made by a debtor under sub-section (1) of section 9 shall contain a statement of debt, in the prescribed form, which shall include the following :— [Cf. C. P. Act II of 1933, s. 6.]

(a1) the name of the place where he ordinarily resides ;

(a) the names and addresses of his creditors, the total amount claimed by each creditor to be owing to him in respect of each debt, so far as is known to the debtor, and a note whether each such claim is admitted by the debtor ;

(b) the history of each such debt with particulars of the original principal and the rate of interest chargeable ;

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(Clause 12.)

- (bb) details of any debts for which the debtor is liable as a surety or is liable with other persons as a joint debtor or joint surety together with the names and addresses of all such persons;
- (c) particulars of the debtor's property both movable and immovable (including claims due to him), a specification of its value and of the places where it may be found, and details of any mortgage, lien or charge subsisting thereon together with the names and addresses of the co-sharers, if any, of the debtor;
- (cc) particulars of any property as in clause (c) which has been transferred by the debtor within two years previous to the date of his application together with the name and address of the transferee;
- (d) particulars of any supplementary income [;] [and] of the debtor;
- [(e) a declaration that all claims have been inserted in the statement and that the debtor is unable to pay his debts.]
- (e) a declaration that all his debts and all his properties have been included in the statement; and
- (f) a declaration that agriculture is the primary means of livelihood of the debtor, and that he is unable to pay his debts.
- (2) An application made by a creditor under sub-section (3) of section 9 shall contain a statement of debt, in the prescribed form, which shall include the following—
- (1a) the name of the place where the debtor ordinarily resides;
- (a) the total amount of every debt claimed by [him] the creditor to be owing to him from the debtor;
- (b) the history of each such debt with particulars of the original principal and the rate of interest chargeable;
- (bb) the names and addresses of the other creditors, so far as they are known to the creditor;
- (c) particulars, so far as they are known to the creditor, of the debtor's property, as in clause (c) of sub-section (1);
- (d) particulars, so far as they are known to the creditor[s], of any supplementary income of the debtor; and
- (e) a declaration that agriculture is the primary means of livelihood of the debtor.

Procedure on receipt of application.

12. (1) On receipt of an application under section 9 the Board shall pass an order fixing a date and place for examining the applicant, unless the application is dismissed forthwith under section 17. [Cf. C. P. Act II of 1933, s. 7.]

(2) The Board shall, in the prescribed manner, give notice of such order to the debtor (if he is not himself the applicant) or (if the debtor is the applicant) to [the creditors named] all persons whose names and addresses are given in the application.

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(Clause 13.)

(3) The applicant shall be examined on oath or affirmation on the date fixed under sub-section (1) or on such other date as the Board may fix and a memorandum of the substance of the statement made by the applicant shall be recorded in writing by the Board.

Further statements of debts.

[13. (1) *If, after examining the applicant, the Board considers it desirable to effect a settlement of debts, it shall issue and publish in the prescribed manner a notice that, within two months of the date of publication of such notice, the debtor (unless the debtor is himself the applicant) and every creditor shall submit a statement of debt in the prescribed form:*]

[Cf. C. P. Act II of 1933, s. 8.]

13. (1) If after examining the applicant, the application is not dismissed forthwith under section 17, the Board shall, in the prescribed manner, serve a notice on the debtor (unless the debtor is himself the applicant) and on every creditor named in the application and also publish a general notice requiring the debtor and all creditors to submit a statement of debt in the prescribed form within one month of the date of service of the notice, or publication of the general notice, whichever is later :

Provided that, if the Board is satisfied that the debtor or any creditor [was] is for good and sufficient cause, unable to comply with such notice, it may extend the period for the submission of his statement of debt.

(2) If any creditor fails to comply with a notice under sub-section (1), the Board, if so empowered under section 7, may pass an order in writing declaring that the amount of any debt due to him from the debtor on the date of such order shall, for the purposes of this Act, be deemed to be the amount stated in the statement of debt submitted by the debtor, and that no debt of which the creditor has failed to submit a statement, other than a debt which the debtor has included in his statement of debt shall be payable ;

and such order shall not be questioned in any Civil Court or in any manner :

[Provided that an order made under this sub-section may be varied or reversed by the Board on an application for review or by the Appellate Officer on appeal if the creditor proves to the satisfaction of the Board or of the Appellate Officer, as the case may be, that the creditor had no knowledge of the notice under sub-section (1) or that he has complied with it.]

(3) If any debtor fails to comply with a notice under sub-section (1), the Board shall dismiss the application and may allow against the debtor such costs as the Board considers reasonable :

Provided that an order made under sub-section (2) or sub-section (3) may be varied or reversed by the Board on an application for review or by the Appellate Officer on appeal if it is proved to the satisfaction of the Board or of the Appellate Officer that the creditor or debtor, as the case may be, had no knowledge of the notice under sub-section (1) or that he has complied with it or that he had sufficient reason for non-compliance :

Provided further that when a Board has ceased to exist an order made under sub-section (2) or sub-section (3) may be varied or reversed by the Appellate Officer on an application if it is proved to his satisfaction that the creditor or

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(Clauses 14—17.)

debtor, as the case may be, had no knowledge of the notice under sub-section (1) or that he has complied with it or that he had sufficient reason for non-compliance.

Production of documents.

14. (1) When a creditor has submit[ed] to the Board a statement of debt under sub-section (2) of section 11 or sub-section (1) of section 13, the Board shall fix a date for the production of all documents (including entries in books of account) by which the creditor intends to prove any debt owing to him together with a true copy of each such document.

[Cf. C. P. Act II of 1933, s. 9.]

(2) The Board shall mark in the prescribed manner each original document so produced, keep the copy, after verifying its correctness, and return the original to the creditor.

(3) No document relating to a debt regarding which a creditor has failed to submit a statement under sub-section (2) of section 11 or sub-section (1) of section 13, and no document which being in the possession or under the control of the creditor has not been produced by him as required by sub-section (1), shall be admissible in evidence against the debtor or his successor in interest in any suit by the creditor or by any person claiming under him for the recovery of the debt to which such document relates unless it is proved to the satisfaction of the Civil Court that there were sufficient reasons for non-production of the document before the Board.

Board to attempt amicable settlement.

15. Subject to any rules made under this Act, the Board shall call upon the debtor and each creditor to explain his case regarding each debt, and shall use its best endeavours to induce them to arrive at an amicable settlement.

[Cf. C. P. Act II of 1933, s. 10.]

Power of Board to require attendance of persons and production of documents and to receive evidence.

16. (1) Subject to rules made under this Act, a Board may exercise all such powers connected with the summoning and examining of parties and witnesses and with the production of documents as are conferred on a Civil Court by the Code of Civil Procedure, 1908.

[Cf. C. P. Act II of 1933, s. 11; Pun. Act VII of 1934, s. 16.]

(2) Any person present may be required by a Board to furnish any information or to produce any document then and there in his possession or power.

Dismissal of applications.

17. (1) An application under section 9 may be dismissed by the Board, at any stage of its proceedings, in respect of all or any of the debts to which it relates,—

[Cf. C. P. Act II of 1933, s. 14; Pun. Act VII of 1934, s. 18.]

(a) if, for reasons to be stated in writing, the Board does not consider it desirable or practicable to effect a settlement of debts, or

(b) if, in the opinion of the Board, the applicant fails to pursue his application with due diligence, or

[Provided that, when such applicant is a creditor, the Board, instead of dismissing such application, may substitute the debtor or any other creditor, who shall thereafter be deemed to be the applicant for the purposes of this Act.]

(c) the debtor is attempting to use the provisions of this Act with a view to defraud any creditor.

[(2) The Board shall dismiss an application under section 9 if it includes a claim which, in the opinion of the Board, is collusive and intended to defraud any creditor.]

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(Clauses 18, 19.)

(2) An application under section 9 shall be dismissed by the Board, if in its opinion—

(a) such application includes a claim which is intended to defraud any creditor; or

(b) there has been transfer of any property by the debtor within two years previous to the date of such application with a view to defraud any creditor.

Determination of amounts of debt.

18. (1) If [the debtor and a creditor are unable to agree] there is any doubt or dispute as to the existence or amount of any debt, the Board shall decide whether the debt exists and determine its amount:

Provided that a decree of a Civil Court relating to a debt shall be conclusive evidence as to the existence and amount of the debt as between the parties to the decree.

(2) Before passing any order under section 19, 20, or 21 the Board, after considering the statements of debt submitted under section 11 and sub-section (1) of section 13 and after hearing the parties and considering the evidence produced shall, in accordance with rules made under this Act, determine in respect of each debt the amount of the principal and the amount of the arrears of interest due thereon up to the date of such determination.

(3) In determining the original principal of a debt for the purposes of proviso (ii) to clause (b) of sub-section (1) of section 19, the Board shall determine the amount of the original loan, after excluding any amount of interest on such loan which may at any time have been included as principal; and the difference between the original principal and the amount of the debt shall be deemed to be the arrears of interest due thereon.

[Provided that where there is no independent proof of the amount of the original principal of the debt and the debtor and creditor are unable to agree as to such amount, the amount shown as the principal in the bond, if any, relating to the debt shall be determined to be the original principal, unless the recital in the bond indicates that the principal mentioned in the bond includes any arrears of interest.]

(4) When the Board has determined under this section the amounts of the principal of a debt due from a debtor and of the arrears of interest due thereon, the decision of the Board in this respect shall not be questioned in any Civil Court or in any manner other than that provided in this Act.

Settlement of debts.

19. (1) Subject to rules made under this Act—

(a) when any creditor agrees in respect of any debts owing to him to an amicable settlement with the debtor, the Board shall embody such settlement in writing [and may dismiss the application in respect of the remaining debts of the debtor]; or

(b) when creditors to whom is owing not less than forty per cent. of the [total debt is owing] total ~~total~~ ~~debt~~ ~~is owing~~ debts, ~~as the case may be~~, agree to an amicable settlement with the debtor, the Board, if it is so empowered under section 7 and if it considers that an offer made by the debtor for the settlement of any debt not included in the amicable settlement is a fair offer which the creditor concerned ought reasonably to accept, may pass an order that the debt to which the offer relates shall be settled in accordance with such offer: [and may dismiss the application in respect of the remaining debts.].

there
debt

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(Clauses 19A, 20.)

Provided that for the purpose of this clause an offer shall not be considered by the Board to be a fair offer—

(i) if its terms are less favourable than the terms of the amicable settlement relating to [a debt of the same description,] secured or unsecured debt, as the case may be, or

(ii) if it contemplates the reduction of any debt to an amount which is less than the original principal of the debt as determined under sub-section (3) of section 18; or

(c) when creditors to whom is owing not less than sixty per cent. of the [total debt is owing] total secured or unsecured debts, as the case may be, agree to an amicable settlement with the debtor, the Board, if it is so empowered under section 7, may pass such order as it thinks fit regarding the terms on which the remaining debts of the debtor shall be settled:

Provided that such terms shall not be less favourable than the terms embodied in the amicable settlement under this clause for a [debt of the same description,] secured or unsecured debt as the case may be, and the terms are in the opinion of the Board fair terms which the creditor concerned ought reasonably to accept.

[(2) Notwithstanding anything contained in sub-section (1), the amount of the principal of any debts due in respect of arrears of rent or under section 171 of the Bengal Tenancy Act, 1885, shall not be reduced under clause (b) or clause (c) of sub-section (1) except by an amicable settlement.]

VIII of 1885.

(3) The terms of any settlement of debts under sub-section (1) shall be embodied in an award to be made by the Board. [in this behalf.]

Explanation—The words “secured debt” in this section mean a debt owing to a creditor holding a mortgage, charge or lien on the property of a debtor or any part thereof as a security for the debt and includes any arrears of rent due to a landlord, and the words “unsecured debt” means any other debt.

(Of Act V of 1920, s. 2 (e) and V of 1898, s. 4 (1) (b).

Decision by Board as to whether a person is a debtor.

19A. If any question arises in connection with proceedings before a Board under this Act, whether a person is a debtor or not, the Board shall decide the matter.

Grant of certificate in respect of certain debts.

20. Subject to any rules made under this Act, if any creditor does not accept an offer made by the debtor which in the opinion of the Board is fair and such as the creditor ought reasonably to accept, the Board if it is so empowered under section 7, instead of passing any other order which it is competent to pass, may grant to the debtor a certificate in the prescribed form in respect of the debt to which the offer relates,

and thereafter, notwithstanding the provisions of any law for the time being in force, no Civil Court shall allow to the plaintiff, in any suit for the recovery of such debt, any costs in such suit or any interest on the debt after the date of

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(Clause 21.)

such certificate in excess of simple interest at the rate of six per cent. per annum on the [amount due on the date of such certificate] principal of such debt as determined under sub-section (2) of section 18, and no decree for the recovery of such debt shall be executed until all amounts payable, in respect of other debts of the debtor, under an award have been paid, or such award has ceased to subsist under sub-section (4) of section 26, or, if there is no award, until the expiry of such period not exceeding ten years as may be specified in the certificate.

Adjustment of an insolvent debtor's debts.

21. (1) When the Board is satisfied that the debts of a debtor are such that they cannot be reduced under the provisions of section 19 to an amount which he will be able to repay within twenty years, and that the debtor is a fit person to be given the benefit of this section, the Board if it is so empowered under section 7, may, subject to rules made under this Act and after considering all the circumstances of the debtor, pass an order declaring that the debtor is insolvent, and

(a) directing that such movable and immovable property of the debtor as it may specify in the order, after excluding such land as in the opinion of the Board is sufficient for the maintenance of the debtor, shall be sold forthwith and the proceeds distributed among the creditors in such proportions as the Board may determine; or

(b) reducing the debts of the debtor to such amounts as it considers that he can pay within the period mentioned in the order, and directing that the total debt as so reduced, shall be paid by the debtor in equal annual instalments.]

(a) reducing his debts to such amounts as it considers that he can pay within a period not exceeding twenty years, to be mentioned in the order and directing that the debts as so reduced shall be paid in equal annual instalments:

Provided that each such instalment shall be fixed by the Board at an amount which, in the estimation of the Board, is likely, in a year of normal harvest, to leave to the debtor as provision towards his maintenance one-half of the surplus which remains from the value of the produce of his land after paying to the landlord the current rent due for such land, or

(b) if, for reasons to be recorded in writing, the Board does not consider it desirable or practicable to reduce the debts in the manner specified in clause (a), specifying what portion of the immovable property of the debtor (including not more than one-third or less than one acre of his land) shall be excluded as provision towards his maintenance, and directing, subject to the provisions of section 22, that the balance of his property shall be sold and that the proceeds shall be utilized towards the payment of his debts in such manner as the Board may direct.

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(Clauses 21A, 22).

(1a) The Certificate Officer shall, on the requisition of the Board in the prescribed form, sell the ~~balance of the~~ property of the debtor referred to in clause (b) of sub-section (1) in the manner provided in the Bengal Public Demands Recovery Act, 1913, and the provisions of the said Act regarding sales in execution of certificates shall, subject to the provisions of this Act, apply to such sale.

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he has paid all the sums fixed by the Board under sub-section (1b) or when

(2) When the property of the [debtor] insolvent referred to in clause [(a)] (b) of sub-section (1) has been sold under [that] sub-section (1a) on which the [debtor] insolvent has paid all the annual instalments or his property has been sold under section 25, the Board shall make an order of discharge and grant him a certificate of discharge in the prescribed form. Such certificate shall release the [debtor] insolvent from all debts which were or might have been included in the application under section 9 :

Provided that if within five years of the [grant of the certificate of discharge] order declaring the debtor insolvent any property is [acquired by or devolves on the insolvent] acquired by, devolves on or is declared by a Civil Court or is discovered to belong to the insolvent debtor such property shall, on application made by a creditor to the Board, be available for distribution among the creditors of the debtor, to the extent of their debts, in such manner as the Board may direct.

(3) An order passed by a Board under sub-section (1) shall be embodied in an award to be made by the Board. [in this behalf.]

Bar to application of sections 19, 20 and 21 to rents, etc.

21A. The provisions of sections 19, 20 and 21 shall not apply to the amount of the principal of any debt due in respect of arrears of rent or under section 171 of the Bengal Tenancy Act, 1885, nor shall such amount be reduced under clause (b) or clause (c) of sub-section (1) of section 19 or under section 21 except by an amicable settlement.

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1885.

Exemption of certain property of an insolvent debtor from sale.

22. (1) When a debtor is declared insolvent under sub-section (1) of section 21, the Board shall, in the prescribed manner, determine what portion of his immovable property shall be deemed to be the dwelling house of the debtor for the purposes of this Act.

(2) Such dwelling house shall be exempt from sale under [clause (a) of] sub-section [(1)] (1a) of section 21 or sub-section (2) of section 25 for the recovery of any unsecured debt, and, notwithstanding anything, contained in any other Act, the debtor shall be incompetent to mortgage, charge, lease or alienate the same in any way until he is granted a certificate of discharge under sub-section (2) of section 21.

(3) Notwithstanding anything contained in any other Act, no part of the property of a debtor who has been declared insolvent under sub-section (1) of section 21 shall be exempt from sale under [clause (a) of] sub-section [(1)] (1a) of that section or under ~~sub-section (1) of~~ section 25 except such movable property as shall be prescribed and, subject to the provisions of sub-section (2), his dwelling house as determined under sub-section (1).

and from sale for the recovery of any unsecured debt under section 25

the immovable property excluded as provision towards his maintenance.

[(4) The Local Government shall, by rule, prescribe what movable property of debtors who have been declared insolvent under sub-section (1) of section 21 shall be exempt from sale under clause (a) of sub-section (1) of section 21 or under section 25.]

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(Clause 23.)

Awards.

23. (1) An award shall be in the prescribed form and shall include the following particulars:—

(a) a list of the immovable properties of the debtor with particulars of any mortgage, lien or charge subsisting thereon;

(a1) a list of the movable properties of the debtor on which there is any mortgage, lien or charge with particulars of such mortgage, lien or charge,

all debts which have been (b) details of the total debt as determined under section 18 *or regarding the amount of which there is no dispute doubt or dispute.*

(c) the amount to be paid to each creditor for each debt owing to him under the terms of an amicable settlement or of an order of the Board under section 19 or section 21;

(d) the manner and the order in which and the times at which the amounts referred to in clause (c) shall be paid:

Provided that such amount shall be paid in the following order, namely:—

the order in which such amounts shall be paid shall be in accordance with any rules made under the Act.

~~First—(i) any amount payable for arrears of rent, and~~

~~(ii) any amount due to the Local Government and included in a certificate issued under the Bengal Public Demands Recovery Act, 1913;~~

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~~Second—any amount payable to creditors on account of debts which are secured by a mortgage, lien or charge on a property;~~

~~Third—any amount payable on account of an unsecured debt for which a decree has been passed by a Civil Court; and~~

~~Fourth—any amount payable on account of any other debts.~~

(e) the rate of interest payable on each amount referred to in clause (c) ~~except where such amount is to be paid in the form of equated payments or an order is passed under clause (a) of sub-section (1) of section 21 for the sale of the property;~~

(f) an order that all the properties mentioned in the list referred to in clause (a) or clause (a1) except such properties as are exempt from sale shall, subject to any mortgage, lien or charge subsisting thereon, be security for the amounts payable under the award.

(2) At a place and time of which notice shall be given to the parties in the prescribed manner, the award shall be explained to the parties present and shall be signed by the Board; but the validity of an award shall not be affected by the absence of any of the parties.

(3) From the date of the signing of the award under sub-section (2) it shall, in supersession of all previous decisions of a Civil Court in respect of the debts mentioned in it, be binding on the debtor and his creditors and the successors in interest of such debtor and creditors.

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(Clauses 23A—25.)

Special provision for arrears of rent.

23A. Notwithstanding anything contained in this or any other Act—

(a) if any rent due for a land mentioned in the list referred to in clause (a) of sub-section (1) of section 23 is in arrears the landlord may include the amount of arrears of rent payable under such award in a suit for the recovery of arrears of rent of such land;

(b) if any land referred to in clause (a) is advertised for sale in execution of a decree for arrears of rent any creditor to whom any amount is due under such award may pay into the Court the amount requisite to prevent such sale and thereupon the amount so paid shall be included by the Board in the award in accordance with rules made under this Act, as an additional amount due to such creditor and such amount shall take priority of every other debt payable under the award.

New Clause

Existing mortgages, etc., to subsist.

24(1) When an award is made as regards any debt which is secured by a mortgage, lien or charge on any immovable property of a debtor, such mortgage, lien or charge shall ~~subject to the provisions of section 24A~~ subsist to the extent of the amount payable in respect of such debt under the award until such amount has been paid or the property has been sold for the satisfaction of such debt, A

24(2)

~~24A. Where a land mentioned in the list referred to in clause (a) of sub-section (1) of section 23 is sold for arrears of rent or such land is sold by a Certificate-officer under the provision of this Act then notwithstanding anything contained in this Act the provisions of Chapter XIV of the Bengal Tenancy Act, 1885, shall so far as may be, apply to such sale.~~

VIII of 1885.

Passing of land sold for arrears of rent or by a Certificate-officer.

Recovery of amounts included in an award.

25. (1) If by the date fixed the debtor fails to pay any amount payable under an award such amount shall be recoverable as a public demand on application made within the prescribed period by [the] a creditor to whom the amount is due.

[Cf. C. P. Act II of 1933, s. 13 (1).]

If the creditor does not so apply such amount shall, for the purposes of clause (iii) of section 30, be deemed to be a debt incurred by the debtor after the date of the signing of the award.

[(2) Subject to any rules made under this Act the Certificate-officer, if satisfied that there is good reason for the failure to pay by the fixed date, may allow time to the debtor within which to pay any amount due. If the Certificate-officer does not thus allow time or if the debtor fails to pay within the time allowed, the Certificate-officer shall proceed to recover the amount in the manner provided in the Bengal Public Demands Recovery Act, 1913.]

[Ben. Act 111 of 1913.]

(2) Subject to any rules made under this Act the Certificate-officer, if satisfied that there is good reason for the failure to pay by the fixed date, may allow time to the debtor within which to pay any amount due. If the Certificate-officer thus allows time, he may, if he thinks fit, further direct that a similar period of time shall be given to the debtor after the

or the debtor has been granted a certificate of discharge under sub-section (2) of section 21.

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(Clause 26.)

time fixed in the award for payment of any other amount payable thereunder, within which to make such other payment, and the award shall be deemed to be modified accordingly.

(2a) If the Certificate-officer does not allow time under sub-section, (1), or if the debtor fails to pay within the time allowed, the Certificate-officer shall proceed to recover the amount in the manner provided in the Bengal Public Demands Recovery Act, 1913 :

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1913.

Provided that, if such debtor has been declared insolvent under section 21, the Certificate-officer after allowing such time, if any, as he thinks fit, shall, forthwith, subject to the provisions of section 22, sell all the property of the debtor.

(3) Subject to the proviso to sub-section (2), if the Certificate-officer fails to recover the full amount in respect of which an application has been made under sub-section (1) by sale of the movable property or agricultural produce of the debtor, he shall sell [all the immovable property of the debtor] such portion of the immovable property of the debtor as will be sufficient to pay all amounts payable under the award except such property as is exempt from sale under the provisions of the Bengal Public Demands Recovery Act, 1913.

(4) When the Certificate-officer sells the immovable property of a debtor under sub-section (1a) of section 21 or under sub-section (3) of this section he shall keep a separate account of the proceeds realised from the sale of any portion of such property upon which a mortgage, lien or charge is shown as subsisting in the list included in the award under clause (a) of sub-section (1) of section 23.

(5) If any debt in respect of which no amount is payable under the award, is secured by a mortgage, lien or charge shown in such list, the Certificate-officer shall sell the immovable property subject to such mortgage, lien or charge, unless a decree of a Civil Court for the recovery of the debt is outstanding in respect of such property. If such a decree is outstanding the Certificate-officer shall distribute the sale proceeds in accordance with the provisions of clause (a) of sub-section (2) of section 26.

Distribution of sale proceeds.

26. (1) When a Certificate-officer has sold under sub-section (1a) of section 21 or under sub-section (3) of section 25, all the property of a debtor which is liable to sale, he shall first pay from the proceeds of the sale—

~~(2a)~~ any amount payable as costs of sale in execution of the certificate, and next—

(a) any amount payable for arrears of rent under the award [or under a decree for arrears of rent passed by a Civil Court after the date of signing of the award or under a certificate for arrears of rent issued after that date under the Bengal Public Demands Recovery Act, 1913] or any amount payable as arrears of rent which may have fallen due between the date of determination of the debt under sub-section (2) of section 18 and the date of confirmation of the sale ; and

(b) any amount due to the Local Government included [in a decree passed by a Civil Court or] in a certificate issued under the Bengal Public Demands Recovery Act, 1913.

such portion of the property of the debtor as will be sufficient to pay all the amounts payable whether under the award or under sub-section (1) of section 26 :

(2a),

(whether under the award or under sub-section (1) of section 26 or under any decree which has, to the knowledge of the certificate officer, been passed by a civil court in respect of a debt of which details are included in the award under clause (b) of sub-section (1) of section 23.

property of a debtor

and

The Bengal [Relief of Indebtedness] Agricultural Debtors Bill, 1935.

(Clause 26.)

(2) After making the payments under sub-section (1), if any, the Certificate-officer shall proceed as follows :—

- (a) he shall, in the first instance, apply the surplus of the proceeds realised from the sale of any portion of the immovable property for which he has kept a separate account under the provisions of sub-section (4) of section 25 to the payment of any amounts payable under the award or under a decree of a Civil Court to creditors on account of debts which are secured by a mortgage, lien or charge upon such property in order of priority determined in accordance with the provisions of the Transfer of Property Act, 1882, and if such surplus is insufficient to meet such payments the balance of such amounts shall rank equally with unsecured debts :

IV of
1882.

Provided that if there is any dispute or doubt as to the priority of payment of such debts the Certificate-officer shall refer the matter to the Appellate Officer who shall determine the same according to the provisions of the aforesaid Act ;

- (b) when there is a surplus after payment of the amounts referred to in clause (a), the Certificate-officer shall apply the sum of such surplus and of any proceeds realised from the sale of other property of the debtor to the payment of any other amounts payable under the award,

and if such sum is insufficient to meet such payment such other amounts and any amount payable on account of an unsecured debt for the recovery of which a decree has been passed by a Civil Court, and of which details are given in the award under clause (b) of sub-section (1) of section 23, shall rank equally between themselves for purposes of payment :

Provided that if any instalment has been paid under the award, for the year when an instalment fell due, for the recovery of which application has been made under sub-section (1) of section 25, any instalment which fell due in that year, but which has not been paid, shall be given priority ;

- (c) any surplus remaining after payment of the creditors in accordance with the foregoing provisions of this section shall be paid by the Certificate-officer to the debtor.

[(3) The orders of a Certificate-officer under this section shall be subject to rules made under this Act.]

(3) The proceedings of a certificate officer under this section shall be in accordance with rules made under this Act.

(3A)

new

(4) [Save as provided in sub-section (2) of section 21.] If the certificate-officer fails to recover any part of the amount recoverable as a public demand, he shall certify that it is irrecoverable ; and thereupon the award shall cease to subsist and any amount payable under the award shall be recoverable as if a decree of a Civil Court had there been passed for its payment :

Provided that when the proceeds of the sale referred to in sub-section (1) is insufficient to meet payment of the amounts payable under an award the Certificate-officer shall inform the Board accordingly. The Board may then pass an order declaring that the debtor is insolvent and thereupon the provisions of sub-section (2) of section 21 shall so far as possible apply to such insolvent.

The Bengal [Relief of Indebtedness] Agricultural Debtors Bill, 1935.

(Clauses 27—30.)

Settlement of debts of a member of a co-operative society.

27. No settlement under this Act of the debts of a member of a co-operative society registered under the Co-operative Societies Act, 1912, who owes any amount to such society, shall be valid without the previous approval in writing of a prescribed authority.

II of 1912.

Stay of proceedings before the Board.

27A. If a debtor informs the Board at the earliest opportunity that the decree referred to in the proviso to sub-section (1) of section 18 was obtained *ex parte* and that he intends to apply to the Civil Court to set it aside the Board may stay further proceedings for such time as it may consider necessary to enable the debtor to set aside the decree.

Bar to suits and proceedings in Civil and Revenue Courts.

28. No Civil or Revenue Court shall entertain a suit, application or proceeding against the debtor in respect of—

[Cf. C. P. Act II of 1933, s. 18.]

(a) any debt included in an application under section 9 or in a statement under sub-section (1) of section 13, proceedings in connection with which are pending before a Board; or

(b) any debt for which any amount is payable under an award, unless such award has ceased to subsist under sub-section (4) of section 26.

Stay and abatement of suits and proceedings.

29. When an application under section 9 or a statement under sub-section (1) of section 13 includes any debt in respect of which a suit or other proceeding is pending before a Civil or Revenue Court, the Board shall give notice thereof to such Court in the prescribed manner, and thereupon the suit or proceeding shall be stayed until the Board has either dismissed the application in respect of such debt or made an award thereon, and if the Board includes any part of such debt under clause (c) of sub-section (1) of section 23 in the award or the Board decides that the debt does not exist or determines its amount the suit or proceeding shall abate so far as it relates to the existence or amount of such debt:

Provided that if such award ceases to subsist under sub-section (4) of section 26, a fresh suit or proceeding may, notwithstanding anything contained in any other Act, be instituted in respect of such debt within one year from the date on which the award ceased to subsist.

Provided that if such award ceases to subsist under sub-section (4) of section 26 an application for the recovery of any amount which was payable under the award may, notwithstanding anything contained in any other Act, be made in a Civil Court within three years from the date on which the award has ceased to subsist.

Bar to execution of certain decrees and certificates.

30. Notwithstanding anything contained in any Act, no decree of a Civil Court or certificate under the Public Demands Recovery Act, 1913, shall be executed—

Ben. Act III of 1913.

(i) for the recovery of a debt included in an application under section 9 or in a statement under sub-section (1) of section 13, until—

(a) the application has been dismissed by the Board in respect of such debt; or

(b) an award in which such debt is included has ceased to subsist under sub-section (4) of section 26;

The Bengal [Relief of Indebtedness] Agricultural Debtors Bill, 1935.

(Clauses 31—34.)

(ii) except as provided in clause (a) of sub-section (1) of section 26, for the recovery of arrears of rent which became due from a debtor after the date of an application under section 9 in respect of his debts, unless notice of such decree or certificate has been given to the Board in the prescribed manner, and [six] three months have elapsed since such notice was given ;

(iii) for the recovery of a debt incurred by a debtor after the date of [the signing of an award made] an application under section 9 in respect of his debts, until all the amounts payable under the award have been paid or such award has ceased to subsist under sub-section (4) of section 26.

Certain decrees to be treated as nullities.

31. Notwithstanding anything contained in any Act, any decree of a Civil Court [relating to any property that has been included in a list of property under clause (a) of sub-section (1) of section 23] passed in regard to a debt after the date of an application under section 9 shall be treated as a nullity in so far as—

- (a) it is inconsistent with any order passed by a Board under sub-section (2) of section 13 regarding any debt or with any determination by the Board under section 18 of the principal and the arrears of interest of any debt included in a subsisting award ; or
- (b) it relates to a debt the documents in respect of which being in the possession or under the control of the creditor have not been produced before the Board and marked by the Board as required by section 14.

Attachment of debtor's immovable property.

32. After receipt of an application under section 9 the Board may [pass an order in writing for the] attach [ment of] the immovable property of the debtor in the prescribed manner and thereupon such property shall be deemed to be under attachment under the provisions of the Code of Civil Procedure, 1908 [from a date to be specified in the order] until [the order] such attachment is withdrawn or cancelled by the Board.

Act V of 1908.

Bar to appeal or revision.

33. No appeal or application for revision shall lie against any decision or order of or award by a Board except as provided in this Act.

[Cf. Pun. Act VII of 1934, s. 22.]

Transfer of applications from one Board to another.

33A. (1) Subject to rules made under this Act, an application made under section 9 may be transferred to and dealt with by another Board.

(2) A Board to which an application is transferred under sub-section (1) may continue the proceedings in connection with the application from the stage which has been reached when the application is transferred.

Appeals.

34. (1) An appeal may be made in the prescribed manner to an Appellate Officer to be appointed by the Local Government against—

- (a) any decision or order of a Board or of a Certificate-officer under this Act,
- (b) any award,
- (c) the grant of a certificate under section 20, or

The Bengal [Relief of Indebtedness] Agricultural Debtors Bill, 1935.

(Clauses 34A—35.)

[(d) an error or defect in any procedure of a Board, or]

(e) any failure on the part of a Board to perform its functions under this Act or any abuse by a Board of its powers :

Provided that in the case of appeals against any order under sub-section (2) of section 13, section 18, clause (b) or (c) of sub-section (1) of section 19, section 20, [or] section 21 or section 26 the Appellate Officer appointed under this section shall be [an officer] a person who has had such judicial experience as may be prescribed by rules made under this Act.

(1a) An appeal under sub-section (1) shall lie if made within thirty days of the date of the decision, order, award or certificate referred to in that sub-section.

(2) The Local Government may make rules regarding the procedure to be followed by the Appellate Officer, and for the control and inspection of his work.

(3) The Appellate Officer may after giving the appellant an opportunity of being heard reject an appeal summarily if he considers that there is no sufficient ground for interfering.

(4) If the Appellate Officer does not reject the appeal summarily, he shall hear the parties, if they appear, and consider any reasons which the Board may submit in regard to the grounds of such appeal, and may then either confirm or modify the decision or order of the Board, or direct the Board to take such action as he thinks fit.

(5) The orders of the Appellate Officer shall be final.

(6) An appeal [shall] for the purpose of this section include an application for revision.

(7) No appeal shall lie against a decision or order passed by a Board with the consent of the debtor and the creditor.

Power of Appellate Officer to transfer applications.

34A. Whenever it is made to appear to the Appellate Officer that for the ends of justice it is expedient to transfer an application made under section 9 from one Board to another, the Appellate Officer may order that the application be transferred to such other Board as may be specified in the order and unless the Appellate Officer otherwise directs the provision of sub-section (2) of section 33A shall be applicable to the proceedings in connection with such application.

Reference to Appellate Officer.

34AA. Subject to rules made under this Act a Board may, if it thinks necessary, make a reference to the Appellate Officer stating the question upon which his opinion, advice or direction is required and the Appellate Officer shall give his opinion, advice or direction, as the case may be, thereon as soon as possible.

Control over Board.

35. (1) A Board shall, in all proceedings under this Act, be subject to the control of the Local Government.

(2) Any person appointed by the Local Government in this behalf may inspect or cause to be inspected any property, books or documents in the possession or under the control of the Board and require the Board to furnish such statements, accounts, reports, copies of documents or such other information relating to the proceedings and duties of the Board, as he thinks fit to call for.

[Cf. Ben. Act XIV of 1935, s. 27; Ben. Act XV of 1932, s. 546.]

*The Bengal [Relief of Indebtedness] Agricultural Debtors
Bill, 1935.*

(Clauses 36—40.)

Power of Board
to review its
order.

36. Subject to any rules made under this Act, a Board [Cf. C. P. Act II of 1933, s. 19.] may, on an application made by any person interested, review any decision or order passed by it and pass such order in reference thereto as it thinks fit :

Provided that no order shall be varied or reversed unless an opportunity has been given to the persons interested to appear and be heard in support of such order.

Certain Acts not
to apply to the
proceedings
under this Act.

36A. (1) Except as otherwise provided in this Act the provisions of—

(a) the Indian Evidence Act, 1872, and

I of 1872.

(b) the Code of Civil Procedure, 1908,

Act V of
1908.

shall not apply to any proceeding before a Board.

(2) The procedure to be followed by a Board in any proceeding before it shall, subject to the provisions of this Act, be in accordance with rules prescribed under this Act.

[Appearance of
party before
Board or
Appellate
Officer by agent
but not by legal
practitioner.]

[37. In any proceedings under this Act any party may, with the permission of the Board if such proceedings are before a Board, or of the Appellate Officer if such proceedings are before an Appellate Officer, be represented by an agent duly authorised by him in writing and approved by the Board or Appellate Officer, as the case may be : [Cf. C. P. Act II of 1933, s. 20.]

Provided that—

(a) no legal practitioner as defined in the Legal Practitioners Act, 1879, and

[XVIII of
1879.]

(b) no person who has been proclaimed as a tout under section 36 of the said Act,

shall be permitted to represent any party.]

Appearance of
party before
Board by an
agent.

37. In any proceedings before a Board under this Act a legal practitioner as defined in the Legal Practitioners Act, 1879, shall not be permitted to represent any party nor shall any such party be represented, without the permission of the Board, by an agent :

XVIII of
1879.

Provided that a son or husband of a party shall be permitted to represent such party even if he is a legal practitioner.

Registration of
awards and
certificates.

38. (1) Every award and every certificate granted under section 20 or sub-section (2) of section 21, shall be registered under the Indian Registration Act, 1908, by the Chairman of the Board in such manner and within such period as may be prescribed. [XVI of 1908.]

(2) For the purpose of the registration under sub-section (1) of an award or a certificate the Chairman shall be deemed to be an officer of Government empowered to execute such instrument within the meaning of section 88 of the Indian Registration Act, 1908.

Publication of
orders and
awards.

39. A copy of any order made by a Board under sub-section (2) of section 13, and a copy of any award shall be published in such manner as may be prescribed by the Local Government.

Chairman and
members of
Boards deemed
to be public
servants.

40. The Chairman and the other members of a Board shall be deemed to be public servants within the meaning of the Indian Penal Code.

Act XLV
of 1860.

*The Bengal [Relief of Indebtedness] Agricultural Debtors
Bill, 1935.*

(Clauses 41—46.)

- Proceedings deemed to be judicial proceedings. 41. All proceedings under this Act shall be deemed to be judicial proceedings within the meaning of section 228 of the Indian Penal Code. Act XLV of 1860.
- Indemnity. 42. No suit, prosecution or legal proceeding whatever shall lie against any Chairman or other member of a Board, Appellate Officer or Certificate-officer in respect of anything in good faith done or intended to be done under this Act. [Cf. Ben. Act XIV of 1935, s. 26.]
- Extension of period of limitation. 43. Notwithstanding anything contained in any other Act, when the period of limitation is calculated for any application, suit or appeal regarding a debt which has been the subject of any proceedings under this Act, the time during which such proceedings continued and the time during which the person interested in such debt was debarred by any provision of this Act from making or instituting the application, suit or appeal, or executing the decree in question, as the case may be, shall be excluded. [Cf. C. P. Act II of 1933, s. 23.]
- Negotiability of awarded amounts. 44. The right to receive any amount payable under an award shall be assignable in the prescribed manner [*same way as a decree of a Civil Court.*]
- Penalties. 45. (1) Whoever—
 (a) intentionally makes any false statement in writing or makes any false statement which has been recorded whether on oath or affirmation or not [*and whether it has been recorded or not,*] before any Board or an Appellate Officer, in any proceeding under this Act;
 (b) intentionally produces before a Board any false copy or translation of a document;
 (c) falsely personates another and in such assumed character [*presents*] produces any document or makes any admission or statement or does any other act in any proceeding under this Act; or
 (d) abets any act punishable under this section;
 shall on conviction, be liable to imprisonment for a term which may extend to [*seven*] three years or to fine or to both.
 [(2) *A prosecution for any offence under this section may be commenced by, or with the permission of, the Collector.*]
 (2) No prosecution for any offence under this section may be commenced except by, or with the permission of, the Collector.
- Power to make rules. 46. (1) The Local Government may make rules for carrying out the purposes of this Act.
 (2) In particular and without prejudice to the generality of the foregoing power the Local Government may make rules to provide for all or any of the following matters, namely:—
 (a) the maximum amount of debt which can be dealt with under the provisions of this Act;
 (b) the fees to be paid for anything done under this Act and the persons by whom and the manner in which such fees shall be paid;

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(Clause 46.)

- (c) the allowances, if any, to be paid to the Appellate Officer, the Chairman and other members of a Board ;
- (d) the office establishment of a Board, the pay, allowances and conditions of service of such establishment ;
- (e) the procedure of a Board, and the quorum for a meeting of a Board ;
- [(ee) *the rate of interest referred to in sub-clause (vii) of clause (8) of section 2 ;*
- (f) *the withdrawal of an application by an authorised Board and the co-option of members by such Board under sub-section (1) of section 8 ;*]
- (g) the forms of application under section 9, of statements of debt under section 11, of awards, of certificates under section 20, of requisitions under sub-section (1a) of section 21, and of certificates of discharge under sub-section (2) of section 21 ;
- [(h) *the transfer and disposal of applications under sub-section (4) of section 9 ;*]
- (h) the transfer of applications under sub-section (4) of section 9 or sub-section (1) of section 33A and disposal of applications under sub-section (4) of section 9 ;
- (hh) the manner of signing and verification of applications under section 9 ;
- (i) the manner of giving notice under sub-section (2) of section 12, sub-section (1) of section 13 and sub-section (2) of section 23 ;
- (j) the marking of original documents produced under sub-section (2) of section 14 ;
- (k) the amicable settlement by a Board of debts under section 15 ;
- (l) the summoning and examination by a Board of parties and their witnesses, and the production of documents, under sub-section (1) of section 16 ;
- (m) the determination by a Board under sub-section (2) of section 18 of the amount of the principal of a debt and the amount of interest due thereon ;
- (n) the settlement of debts by a Board under section 19 ;
- (o) the grant of a certificate under section 20 ;
- (p) the declaration by a Board under sub-section (1) of section 21 that a debtor is insolvent, the sale of his property and the reduction of his debts ;
- (q) the determination of a portion of the immovable property of a debtor as his dwelling house under sub-section (1) of section 22 ;
- (r) the movable property of an insolvent debtor which shall be exempt under sub-section (3) of section 22 from sale ;
- (s) the period within which an application under sub-section (1) of section 25 shall be made ;
- (t) the grant of time under sub-section (2) of section 25 for payment of the amount due ;
- (u) the distribution of sale proceeds and the proceedings of a certificate-officer under section 26 ;
- (v) the authorities whose approval is required under section 27 ;

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Bill, 1935.*

(Clause 47.)

- (w) the manner of giving notice under section 29 and under section 30 ;
 - (ww) the manner of attachment of immovable property under section 32 ;
 - (x) the manner of making an appeal under sub-section (1) of section 34 ;
 - (y) the judicial experience required in the case of certain Appellate Officer under proviso to sub-section (1) of section 34 ;
 - (z) the procedure of an Appellate Officer and the control and inspection of his work under sub-section (2) of section 34 ;
 - (z¹) the manner of review under section 36 of [a] a decision or order passed by a Board ;
 - (z²) the manner in which and the period within which awards and certificates shall be registered under sub-section (1) of section 38 ; and
 - (z³) the publication under section 39 of awards and of certain orders ;
 - (z⁴) the manner of assignment of an award under section 44 ;
- (3) The power of making rules conferred by clause (b) of sub-section (2) is subject to the condition that the rules be made after previous publication.

Penalty for
breach of rules.

47. In making any rule under this Act the Local Government may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees and, where the breach is a continuing one, with further fine which may extend to ten rupees for every day after the first during which the breach continues.

[Cf. C. P.
Act II of
1933, s. 28
(3).]

J. W. MCKAY,

Secy. to the Bengal Legislative Council.

GOVERNMENT OF BENGAL.

Legislative Department.

NOTIFICATION.

No. 997L.—15th November, 1935.—His Excellency the Governor having been pleased to order, under rule 18 of the Bengal Legislative Council Rules, 1920, the publication of the following Bill, together with the Statement of Objects and Reasons which accompanies it, in the *Calcutta Gazette*, the Bill and the Statement of Objects and Reasons are accordingly hereby published for general information.

THE BENGAL WAKF (AMENDMENT) BILL, 1935.

A
BILL

to amend the Bengal Wakf Act, 1934.

WHEREAS it is expedient to amend the Bengal Wakf Act, 1934, in the manner hereinafter appearing;

Ben. Act
XIII of
1934.

AND WHEREAS the previous sanction of the Governor General has been obtained under sub-section (3) of section 80A of the Government of India Act to the passing of this Act;

5 & 8 Geo.
V. c. 61
6 & 7 Geo.
V. c. 37
9 & 10 Geo.
V. c. 101

It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bengal Wakf (Amendment) Act, 1935.

Insertion of new section 43A in Bengal Act XIII of 1934.

2. After section 43 of the Bengal Wakf Act, 1934 (hereinafter referred to as the said Act) the following section shall be inserted, namely:—

Commissioner to decide if a property is wakf property or a wakf is wakf-al-aulad.

“43A. Any question whether a particular property is wakf property or not or whether a wakf is wakf-al-aulad or not shall be decided by the Commissioner whose decision, unless revoked or modified by a competent Court, shall be final.”

Amendment of section 93.

3. In section 93 of the said Act, for the words “twelve months” the words “two years” shall be substituted.

CENTRAL PROVINCES ACT No. II OF 1933
THE CENTRAL PROVINCES DEBT-CONCILIATION
ACT, 1933

[Published in the *Central Provinces Gazette*, dated the 18th March 1933.]

An Act to make provision for the setting up of Debt Conciliation Boards to relieve agriculturists from indebtedness.

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[Price—Annas Two.]

CENTRAL PROVINCES ACT No. II OF 1933
THE CENTRAL PROVINCES DEBT CONCILIATION
ACT, 1933

An Act to make provision for the setting up of Debt Conciliation Boards to relieve agriculturists from indebtedness.

WHEREAS it is expedient to relieve agriculturists from indebtedness by amicable settlement between them and their creditors; Preamble.

AND WHEREAS the previous sanction of the Governor General required by sub-section (3) of section 80-A of the Government of India Act has been obtained to the passing of this Act;

It is hereby enacted as follows:—

1. (1) This Act may be called the Central Provinces Debt Conciliation Act, 1933. Short title, extent and commencement.

(2) It extends to the whole of the Central Provinces.

(3) It shall come into force on such date as the Local Government may, by notification, direct.

2. In this Act, unless there is anything repugnant in the subject or context— Definitions.

(a) the expressions "*malik-makbuza*", "*proprietor*", "*raiyat*", "*raiyat-malik*" and "*village*" shall have the meanings assigned to them in the Central Provinces Land Revenue Act, 1917;

(b) the expressions "*agriculture*", "*holding*", "*land*", "*occupancy tenant*" and "*absolute occupancy tenant*" shall have the meanings assigned to them in the Central Provinces Tenancy Act, 1920;

(c) "*Board*" means a Debt Conciliation Board established under sub-section (1) of section 3;

(d) "*creditor*" means a person to whom a debt is owing and includes a co-operative society;

(e) "*debt*" includes all liabilities owing to a creditor, in cash or kind, secured or unsecured, payable under a decree or order of a civil court or otherwise, whether due or not due, but shall not include arrears of wages, land revenue or anything recoverable as an arrear of land revenue, or any money for the recovery of which a suit is barred by limitation;

(f) "*debtor*" means a person who earns his livelihood mainly by agriculture and who is an occupancy

tenant or absolute-occupancy tenant or *raiyyat* or *raiyyat-malik* or a *malik-makbuza* or a proprietor, whose debts exceed Rs. 150;

(g) "prescribed" means prescribed by rules made under this Act.

Establishment of Debt Conciliation Board.

3. (1) The Local Government may establish a Debt Conciliation Board for any district or part of a district. Such Board shall consist of a Chairman and two or more members, not exceeding five, including the Chairman, to be appointed by the Local Government which may, for reasons to be recorded in writing, cancel any appointment and dissolve any Board.

(2) The Chairman and every member of a Board so established shall be appointed for a term not exceeding one year. Such Chairman or member may, on the expiration of the period for which he has been appointed, be again appointed for a further term not exceeding one year.

(3) A Board shall have such quorum as may be prescribed.

(4) Where the Chairman and members of a Board are unable to agree, the opinion of the majority shall prevail. Where the Board is equally divided the Chairman shall have a casting vote.

Application for settlement between debtor and his creditors.

4. (1) A debtor or any of his creditors may apply to the Board appointed for the area in which any holding, land or village of the debtor, or any part thereof, is situate, to effect a settlement between the debtor and his creditors:

Provided that no application shall be made if the debtor's debts exceed twenty-five thousand rupees or such larger amount as may be prescribed for each area.

(2) No debtor or creditor shall simultaneously make more than one application, and where applications have been made by the debtor and any of his creditors, the applications made by the creditors shall be merged in the application made by the debtor.

Verification of application.

5. Every application to a Board shall be in writing and shall be signed and verified in the manner prescribed by the Code of Civil Procedure, 1908, for signing and verifying plaints.

Particulars to be stated in application.

6. (1) Every application presented by a debtor to a Board shall contain the following particulars, namely:—

(a) a statement that the debtor is unable to pay his debts;

(b) the place where he resides;

(c) the amount and particulars of all claims against him, together with the names and residences of his creditors so far as they are known to, or can by the exercise of reasonable care and diligence be ascertained by him; and

(d) the amount and particulars of all his property, including claims due to him, together with a specification of the value of such property not consisting of money, and the place or places at which any such property is to be found.

(2) Every application presented by a creditor shall contain the following particulars, namely:—

- (a) the place where the debtor resides; and
- (b) the amount and particulars of his claim against such debtor.

7. (1) On receipt of an application under section 4, the Board shall pass an order fixing a date and place for hearing the application: Procedure on application.

Provided that the Board may at any time dismiss the application if, for reasons to be stated in writing, it does not consider it desirable to attempt to effect a settlement between the debtor and his creditors.

(2) Notice of the order under sub-section (1) shall be sent by registered post to the debtor or creditors, as the case may be.

8. (1) If, after examining the debtor, it is in the opinion of the Board desirable to attempt to effect a settlement between him and his creditors, a notice shall be issued and served or published in the manner prescribed, calling upon every creditor of the debtor to submit a statement of debts owed to such creditor by the debtor. Such statement shall be submitted to the Board in writing within two months from the date of service or publication of the notice, as the case may be: Notice calling upon creditors to submit statement of debts.

Provided that, if the Board is satisfied that any creditor was, for good and sufficient cause, unable to comply with such directions, it may extend the period for the submission of his statement of the debt owed to him.

(2) Every debt of which a statement is not submitted to the Board in compliance with the provisions of sub-section (1) shall be deemed for all purposes and all occasions to have been duly discharged:

Provided that, if a creditor proves to the satisfaction of the Board or a civil court that the notice was not served on him and that he had no knowledge of its publication, the Board or court may revive the debt.

9. (1) Every creditor submitting a statement of the debts owed to him in compliance with a notice issued under sub-section (1) of section 8 shall furnish, along with such statement, full particulars of all such debts and shall at the same time produce all documents, including entries in books of account, on which he relies to support his claims, together with a true copy of every such document. Procedure on submission of statement of debts.

(2) The Board shall, after marking for the purpose of identification every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the creditor.

(3) If any document which is in the possession or under the control of the creditor is not produced by him as required by sub-section (1), the document shall not be admissible in evidence against the debtor in any suit brought by the creditor or by any person claiming under him.

Board to endeavour amicable settlement. 10. The Board shall call upon the debtor and each creditor, respectively, to explain his case regarding each debt and shall endeavour to induce them to arrive at an amicable settlement.

Power of Board to require attendance of persons and production of documents and to receive evidence. 11. (1) Subject to the provisions of sections 132 and 133 of the Code of Civil Procedure, 1908, and to rules made under section 25 a Board shall have power to summon any person whose attendance it considers necessary either to be examined as a party or to give evidence as a witness or to produce any document for the purposes of any inquiry under this Act.

V of 1901.

(2) Any person present may be required by a Board to give evidence or to produce any document then and there in his possession or power.

Agreement of amicable settlement, its registration and effect. 12. (1) If the creditors to whom not less than forty per cent of the total amount of the debtor's debts are owing come to an amicable settlement with the debtor, such settlement shall forthwith be reduced to writing in the form of an agreement recording the amounts payable to such creditors and the manner in which and the times at which they are to be paid. Such agreement shall be read out and explained to the parties concerned, and shall be signed or otherwise authenticated by the Board and the parties :

Provided that, when a co-operative society is one of such creditors, no settlement, in so far as it affects the debts owing to such society, shall be valid without the previous approval in writing of the Registrar of Co-operative Societies.

(2) An agreement thus made shall, within fourteen days from the date of its making, be registered under the Indian Registration Act, 1908, by the Chairman of the Board in such manner as may be prescribed and it shall then take effect as if it were a decree of a civil court.

XVI of 1908.

(3) For the purpose of the registration of an agreement under sub-section (2), the Chairman of the Board shall be deemed to be an officer of Government empowered to execute such agreement within the meaning of section 88 of the Indian Registration Act, 1908.

XVI of 1908.

Recovery of sums due under agreement.

13. (1) If a debtor defaults in paying any amount due in accordance with the terms of an agreement registered under sub-section (2) of section 12, such amount shall be

recoverable as an arrear of land revenue on the application of the creditor made within ninety days from the date of default.

(2) Where the Deputy Commissioner fails to recover as an arrear of land revenue any part of such amount, he shall certify that it is irrecoverable and thereupon the agreement shall cease to subsist.

(3) Where an agreement ceases to subsist, any amount which was payable under such agreement but has not been paid shall be recoverable as if a decree of a civil court had then been passed for its payment.

14. If no amicable settlement is arrived at under sub-section (1) of section 12, the Board shall dismiss the application. Power of Board to dismiss application.

15. (1) Where, during the hearing of any application made under section 4, any creditor refuses to agree to an amicable settlement, the Board may, if it is of opinion that the debtor has made such creditor a fair offer which the creditor ought reasonably to accept, grant the debtor a certificate, in such form as may be prescribed, in respect of the debts owed by him to such creditor. Grant of certificate by Board in respect of certain debts.

(2) Where any creditor sues in a civil court for the recovery of a debt in respect of which a certificate has been granted under sub-section (1), the court shall, notwithstanding the provisions of any law for the time being in force, not allow the plaintiff any costs in such suit, or any interest on the debt after the date of such certificate in excess of simple interest at six per cent per annum on the amount due on the date of such certificate. Power of Court to disallow costs or interest.

(3) Where, after the registration of an agreement under sub-section (2) of section 12, any unsecured creditor sues for the recovery of a debt, other than a debt incurred subsequent to such agreement, in respect of which a certificate has been granted under sub-section (1) or any creditor sues for the recovery of a debt incurred after the date of such registration, any decree passed in such suit shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, not be executed until all amounts recorded as payable under such agreement have been paid or such agreement has ceased to subsist.

V of
1908.

16. No civil court shall entertain—

(a) any suit in respect of—

- (i) any matter pending before a Board, or
- (ii) the validity of any procedure or the legality of any agreement made under this Act, or
- (iii) the recovery of any debt recorded as wholly or partly payable under an agreement registered under sub-section (2) of section 12 from any person who, as a debtor, was party to such agreement, whether such agreement is subsisting or not, or

Bar of civil suits

(iv) the recovery of any debt which has been deemed to have been duly discharged under sub-section (2) of section 8, except a debt which is revived under the proviso to that sub-section;

(b) any application to execute a decree, the execution of which is suspended under sub-section (3) of section 15.

Avoidance of certain transfers of debtor's property.

17. Every transfer of property made, with intent to defeat or delay the creditors of the debtor, after an application has been made to a Board under section 4 and until the agreement registered in respect of such application has ceased to subsist, shall be voidable at the option of any creditor so defeated or delayed.

Bar of appeal or revision.

18. No appeal or application for revision shall lie against any order passed by a Board.

Power of Board to review its order.

19. A Board may, on the application from any person interested made within ninety days of the passing of an order, review any order passed by it and pass such order in reference thereto as it thinks fit:

Provided that no order shall be varied or reversed unless notice has been given to the persons interested to appear and be heard in support of such order.

Appearance of party before Board by agent but not by legal practitioner.

20. In any proceedings before a Board any party may be permitted to appear by an agent authorized in writing, but not by a legal practitioner.

Suspension of pending application or suit.

21. When an application has been made to a Board under section 4, any suit or other proceedings then pending before a civil court in respect of any debt for the settlement of which application has been made shall be suspended until the Board has dismissed the application or an agreement registered under sub-section (2) of section 12 has ceased to subsist.

Submission of reports by Boards regarding sums due to Government.

22. Where in the course of an inquiry into an application made under section 4 a Board finds that there is any sum owing to Government on account of loans advanced under the Agriculturists Loans Act, 1884, or the Land Improvement Loans Act, 1883, or otherwise, the Board shall report this fact through the Deputy Commissioner to the Commissioner.

XII e
1884.
XIX e
1883.

Allowance of time for limitation.

23. In calculating the period of limitation for any suit filed in, or proceeding before, a civil court for the recovery of a debt which was the subject of any proceedings under this Act, the time during which such proceedings had continued shall be excluded.

Members of Board deemed to be public servants.

24. The members of a Board shall be deemed to be public servants within the meaning of the Indian Penal Code. XLV
1860.

25. In addition to any power specially conferred by this Act, the Local Government may make rules— Power to make rules.

- (a) prescribing the quorum for, and regulating the procedure before, a Board;
- (b) prescribing the manner in which notices shall be issued and served or published under sub-section (1) of section 8;
- (c) prescribing the charges to be made by a Board for anything done under this Act and the persons by whom and the manner in which such charges shall be paid;
- (d) prescribing the records to be kept and the returns to be made by a Board;
- (e) prescribing the allowances, if any, to be paid to the Chairman and members of a Board;
- (f) regulating the power of a Board to summon parties and witnesses under section 11 and the grant of expenses to witnesses;
- (g) prescribing the place at which and the manner in which an agreement shall be registered under sub-section (2) of section 12;
- (h) prescribing the form of certificate to be granted under sub-section (2) of section 13 or sub-section (1) of section 15; and
- (i) generally, for the purpose of carrying into effect the provisions of this Act.

26. (1) All rules for which provision is made in this Act shall be made by the Local Government and shall be consistent with this Act. General provisions regarding rules.

(2) All rules shall be subject to the condition of previous publication.

(3) In making any rule the Local Government may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees, and, where the breach is a continuing one, with further fine which may extend to ten rupees for every day after the first during which the breach has been persisted in.

CENTRAL PROVINCES ACT No. I OF 1934
THE CENTRAL PROVINCES DEBT CONCILIATION
(AMENDMENT) ACT, 1934

[Published in the *Central Provinces Gazette*, dated the 15th March 1934.]

An Act to amend the Central Provinces
Debt Conciliation Act, 1933.

WHEREAS it is expedient to amend the Central Provinces Debt Conciliation Act, 1933, in the manner hereinafter appearing; Preamble.

It is hereby enacted as follows :—

1. This Act may be called the Central Provinces Debt Conciliation (Amendment) Act, 1934. Short title.

2. In sub-section (1) of section 3 of the Central Provinces Debt Conciliation Act, 1933, for the words "not exceeding five" the words "not exceeding nine" shall be substituted. Amendment of section 3 (1), Act of 1933.

[Price—0-0-6]

REPORT OF THE ECONOMIC DEPRESSION RELIEF
MEASURES ENQUIRY COMMITTEE, *Cohen*

C. G. P.]

REPORT OF THE ECONOMIC DEPRESSION RELIEF MEASURES ENQUIRY COMMITTEE.

This committee was appointed as per Diwan's Proceedings, dated 2nd March 1934, L-6-3309/1109. The Proceedings ran as follows:—

“On account of the prevailing depression, the agriculturists in the State find it difficult to pay interest on debt incurred by them before the depression began. Owing to the precipitous fall of agricultural prices, debts incurred by agriculturists five or more years ago on the security of their lands have now been increased by anything up to 300 per cent in term of agricultural commodities and the rate of interest has, as a necessary consequence, been similarly raised. In these circumstances it seems to Government desirable to consider if any relief can be granted to agriculturists by temporary legislation to restrict retrospectively the interest on existing loans. The problems raised by the proposal are, however, very complex and Government consider that a committee should be appointed to report on them. The following will be the personnel of the committee appointed for the purpose.—

* * * * *

2. The terms of reference to the committee will be as follows.—

(1) Is it desirable to introduce emergent legislation temporarily to limit retrospectively the rate of interest on loans secured or sought to be charged on real property?

(2) If it is desirable to limit the rate of interest retrospectively, from what date should the rate of interest be limited?

(3) What should be the rate of interest on

(a) secured and

(b) unsecured loans which are charged on real property?

(4) Do you recommend any other adjustments as a result of your recommendations on the first three items of reference?

(5) Is any further action necessary with regard to kuries?”.

The expression ‘sought to be charged on real property’ and ‘unsecured loan charged on real property’ appearing in items 1 and 3 (b) of the reference were found to be ambiguous and susceptible of different interpretations. They may be taken to mean either simple debts for which real property has been attached, or simple debts generally, since all debts are ultimately sought to be recovered by the sale of immovable property. We have accepted the latter view, since the former, if followed, would necessitate the re-opening of money decrees in execution for fixing the amount of interest, which is not desirable. Viewed in the light of the preamble, the reference is intended to cover only debt satisfying the following conditions.—(1) that the debts, secured or unsecured, must be debts owed by agriculturists and (2) that they must be existing debts, i. e., debts subsisting on the date on which the regulation or proclamation, as the case may be, is passed or issued. The remaining terms of the reference presented no difficulty and need no comment.

2. We set to work immediately on receipt of the proceedings above referred to. A preliminary meeting was held at Ernakulam on 3—8—1109 at which the programme of work was settled. It was resolved that a questionnaire should be issued and the committee should visit important centres and record evidence. A questionnaire was accordingly then and there drawn up and was published in three successive issues of the Cochin Government Gazette. To

2

give wider publicity, the questionnaire was also published in all the leading papers in the State and three thousand copies (Malayalam) were distributed among the villagers through the village officers. The next meeting of the committee was on 10-8-1109 when the list of witnesses to be summoned was approved. Along with the summons each witness was supplied with a copy of the questionnaire. 512 persons (including institutions) sent in answers to the questionnaire. We next visited important centres, urban and rural, and examined witnesses. The places visited were Ernakulam, Narakkal, Cranganur, Irinjalkkuda, Anthikad, Kunnamkulam, Chittur and Trichur. In all 96 witnesses were examined. After evidence was closed, we met again at Ernakulam on the 27th, 28th and the 29th of Medam at which the evidence was discussed and certain tentative proposals were formulated. These proposals were approved at the final sitting at Ernakulam on 15-10-1109 and those proposals are embodied in the present report. We take this opportunity for thanking all those who have helped the committee with their evidence. Our thanks are due also to the Press for publishing our questionnaire free of charge.

3. It was not possible, within the short time at our disposal, to assess the total indebtedness of the agricultural population or to enquire into the financial position of individual families even in the areas seriously affected. Our endeavour has been to get a general idea of the real situation and it was with this object in view and with the object of eliciting the views of those interests that are not represented on the committee, that evidence was recorded. The state of things revealed by the evidence is distressing, especially in the coastal tract, where the main source of income of the agricultural population is the produce of the cocoanut palm. With the heavy fall in the price of cocoanuts there was a corresponding lowering of the prices of the by-products, with the result that the minor industries in such products, which supplied a subsidiary source of income, had to be given up, culminating in the blocking up of that source entirely. The combined effect was to considerably add to the indebtedness of the agriculturists making their position intolerable. The evidence would show that at least 75 per cent of the agriculturists are groaning under the burden of debt, many of them having already passed the stage of recovery. In the words of Mr. T. K. Sankara Menon, Superintendent of Economic Survey, who was examined as a witness, 'a feeling of despair' prevailed among the people whom he consulted. According to him the total indebtedness of Nayarambalam (where there are 971 agriculturists house-holds) comes up to a little over 5½ lakhs of rupees; what is more alarming is that two to three years' interest on this huge amount is in arrears and most of the subscribers to kuries are in default. Mr. Sankara Menon had first hand knowledge only about Nayarambalam village which alone he had surveyed, but he adds that the position is more or less the same all along the coastal tract. The position in the northern parts of the State, though bad enough, does not appear to have reached the same acute stage as in the coastal area. One reason for the difference may be that in some parts of the northern district, people have two sources of income, namely, produce of paddy land and produce of cocoanut and arecanut gardens. Indeed, Kunnamkulam and the surrounding localities where arecanut forms an important item of income, seem to be least affected by the depression. Some of the witnesses examined at Kunnamkulam say that the price of arecanut has not seriously fallen. According to some, there was even a slight rise in 1108. Another reason for the slightly better conditions in the northern parts is to be found in the fact that there are more commercial and industrial activities in those parts. Trichur is a commercial centre, and the beneficial effects of the commercial and industrial activities going on there permeate and extend beyond the borders of the Municipality and supplement to some extent the income of the people inhabiting the neighbouring villages. In the mofussil areas also we come across more industrial concerns such as rice mills, tile factories, etc., in the northern district than in the southern. In making the above observations we are not to be understood as saying that the ryots of the northern parts are, as a whole, in a position to stand on their own legs. They are also feeling the burden of debt very keenly; only their position has not reached the same acute stage as that of the agriculturists inhabiting the coastal area.

4. The present economic distress due to the heavy fall in prices is not a phenomenon peculiar to our State. It is a feature common to all the countries

throughout the world. There is, however, this main difference: 'Elsewhere in the world, especially in the new countries of America where agriculture is more or less capitalistic, agricultural indebtedness is rather a modern problem arising from the sudden slump in prices, but in India, it is an old problem, a chronic disease which cannot be remedied by any measure of immediate relief.' (Prof. P. J. Thomas—on the Problem of Rural Indebtedness—page 1). The remarks about India apply equally well to Cochin. It is worthy of note that the heavy debt under the weight of which our agricultural population is now groaning is not the creation of the period of depression, but the accumulated heritage of previous years. In fact the bulk of the existing debt appear to have been contracted during times of plenty when paddy and cocoanuts were fetching fabulous prices in the market. The present crisis has arisen not so much because of fresh debts contracted after the depression began as because of the inability of the agriculturists, by reason of the slump in prices, to pay interest on the huge debt that had already accumulated and to meet their other pecuniary demands. It may be interesting to know the main causes that led to the accumulation of debts in the past. Foremost among those causes stands the insatiable thirst many of our people had at one time for landed property. And the temptation for purchasing lands was quite natural when produce from lands was selling at fabulous prices. Very often lands with heavy encumbrances were purchased by paying a small amount in ready cash, in the hope that with the income of the property supplemented by some windfall in the shape of winning a kuri ticket, the encumbrance could be discharged. But, as a matter of fact, the income from the property would be found to be not sufficient even for payment of interest on the encumbrance while the expected windfall may be long in coming, with the result that in the course of a few years the accumulated interest would swallow up the whole property. A typical example of such speculative dealings is afforded by the avidity with which people went in, and paid high prices, for the accretion lands at Narakkal sold by Sirkar some years ago. It appears that prices went up even to Rs. 1,500 for an acre of bare soil. In most cases the money must have come by borrowing. The purchasers then began to plant up the area, also presumably with borrowed money, and by the time the trees began to bear after the lapse of six or seven years, the property became encumbered to the brim. Yet they managed to pull through so long as prices ruled high, but when the prices fell, the crash came. Many an owner would think it their good fortune if they could now sell the fully planted area for the price they paid for the soil alone. Another contributory cause was the large sums spent for civil and criminal litigation, marriage and other domestic ceremonies and house construction. Borrowing for productive purposes, such as purchase and improvement of land, may be desirable if it is not speculative or improvident, but borrowing large sums for unproductive purposes such as marriages, etc., is not excusable on any ground. "The peculiar feature which marks out Indian agricultural indebtedness from that of other countries is that it is chiefly due to unproductive expenditure. While in the United States the great bulk of farmers' borrowings are for productive purposes, and only a small percentage for family expenses, Indian agricultural classes borrow only very small sums for agricultural expenses; but they raise large sums for all kinds of unproductive purposes. Thus, in the United Provinces, according to the Provincial Banking Committee, 70% of the existing debt was contracted for unproductive purposes, and the same is more or less true of Bengal and Bombay. In Madras, where things are slightly better, the proportion of unproductive borrowings was found to be 60% in several Districts." (Professor Thomas—on the Problem of Rural Indebtedness—page 2). We have no statistics as to the percentage in Cochin, but it cannot be much below the percentage for the Madras Presidency. In this connection the springing up of a large number of indigenous banks was not an unmixed blessing. Most of the banks with which the State is now studded came into being during the last 15 years. With the opening of these banks, credit became easy. One had only to secure the signature of a surety to draw from the banks amounts for which, formerly, a solemn mortgage deed would have been necessary. Our people are generally ignorant of the true use of credit, and the combined effect was an all-round borrowing on a large scale and squandering the money mainly for unproductive purposes. "Credit," says Professor Gide, "holds up the land owner as a rope holds up the hanged man." To the same effect is the observation of the Koyal Commission

on Agriculture. They say "in fact cheap credit is a blessing to a rural population only where the average cultivator is possessed of the knowledge and strength of character required to induce him, on the one hand, to limit his borrowings within the range of his capacity to pay, and on the other, to apply the greater part of the borrowed money to sound productive purposes. To lavish easy credit on those unaccustomed to its proper use is to condemn the borrowers to certain financial destruction. The provision of facilities for cheap credit must at the outset bring new temptations as well as extended opportunities. Those only can hope to profit by its opportunities who have learnt to resist its temptations." (Agricultural Commission Report--page 425). It is unfortunately beyond the capacity of a large number of our ryots to resist such temptations, and this accounts for the alarming growth of indebtedness among them.

5. The above discussion will show that the agricultural debtors themselves are mainly responsible for the present state of affairs. It was their improvident and speculative dealings and their borrowing for unproductive purposes that have mainly contributed to the abnormal growth of their debts. Any legislation intended to help the debtors at the expense of the creditors will therefore be tantamount to putting "a premium on improvidence and a penalty on thrift". But a new and unanticipated factor has come into existence and that has made all the difference. That factor is the heavy fall in the prices of agricultural products on which the agriculturist has to rely for meeting the demands on his purse. But for such a fall, he probably would have been able to pull through, though with difficulty, and there would probably have been no justification for Government interference. But by the fall in prices, for which the debtor was not responsible, his assets have gone down by half in value, while his debt has doubled itself and the demand on his purse for the payment of interest has trebled. Even under ordinary circumstances "the lot of the ryot is really pitiable; nearly all the risks of agriculture fall on him; Government have a legal first charge on his produce and the money-lender has a virtual charge; but he, the risk-taker, the entrepreneur, gets hardly a fair wage for his labour, not to speak of profits. There are plenty of people to commiserate the lot of the industrial worker who takes little risks, and who gets his share of the product the day he begins work, and Royal Commissions tour at great expense to enquire into his wages and improve his housing conditions, but there is scant pity for the toiling peasant who takes all the risks of agriculture and gets his share of the produce last (if there is anything left); who has too often starvation for his lot and lives in a miserable hovel, doing all the dirty job necessary to raise food-stuffs and raw materials essential for the world. He is the real Cinderella of world economy. This inequity in distribution has already brought its nemesis and it would be hard to revive world prosperity unless the 70 per cent of the world's population who toil in the fields are given a larger part of the world's total income." (Professor Thomas—Problem of Rural Indebtedness—page 6). The result is, in the words of the same author "the great majority of Indian ryots are born in debt, live in debt, die in debt and bequeath debt. And the last is not the least important; for, inexorable custom ordains that the son must pay the debts of the father, no matter whether the latter had left any assets or not" (page 4). If this be the ordinary lot of a ryot, we can imagine what grinding and deadening effect the heavy fall in prices must have upon him. Does not this picture provide a sufficient justification for Government interference? Of course, there is the other side of the picture. There are, unfortunately, some ryots who borrow with no intention to repay and who, though able to repay, put all sorts of obstacles in the way of their creditors' attempt to realise their amounts. Such men ought certainly to be spotted out and punished; but it would be inequitable to visit the agriculturists as a whole with punishment for the sins of the dishonest few. There is yet another reason why the Government should interfere. If matters are allowed to drift as they are at present, a good many of the ryots will, in the course of a few years, lose their property and sink into the position of labourers while land will accumulate in the hands of a few moneyed men. This is a state of things which no Government can view with equanimity. Again, the abnormal increase in rural indebtedness is a social and political evil. "A society steeped in debt is necessarily a social volcano. Discontent between classes is bound to arise, and smouldering discontent is always dangerous. It may not everywhere blaze out in a revolution, but recurring social unrest is worse than revolution, in that it perpetuates economic inefficiency and puts off reconstruction." (Professor

Thomas—Problem of Rural Indebtedness—page 14). We may say that almost all the witnesses examined, with very few exceptions, were impressed with the necessity of granting some relief to agriculturist debtors; the difference of opinion was only with regard to the particular form which relief measures should take.

6. Having made the above general observations we shall now proceed to give our answers on the points referred to us; but before doing so, we have to define who an agriculturist is; for, as already stated, our recommendations are to affect only debts owed by agriculturists. We give the following definition:—

An 'agriculturist' shall be taken to mean a person who ordinarily engages in agriculture by himself, his servant, or his tenant and who has no income which is assessed to income-tax.

All agriculturists—rich or poor, landlord or tenant—have been equally hit by the depression. We do not therefore propose to put a limit to the amount of revenue or rent paid, and exclude those paying a higher amount from the benefits of the proposed regulation. We, however, exclude persons assessed to income-tax, for those persons have an annual income of not less than Rs. 2,000 from sources other than agriculture. This additional income must ordinarily be sufficient to make up for the loss they are put to by the fall in prices. For almost the same reason, we would not treat a loan taken jointly by an agriculturist and a non-agriculturist as an agriculturist's debt, there being other source for the satisfaction of the debt.

7. Coming to the first item in the reference, we are inclined to think that it is desirable to introduce emergent legislation temporarily to limit, retrospectively and prospectively, the rate of interest on the existing debts, secured and unsecured, owed by agriculturists. Of the 512 persons who have answered the questionnaire, 25 subsequently came forward and gave oral evidence. These 25 are included in the number of witnesses already given, namely, 96. Of the remaining 487, 435, and out of a total of 96 witnesses, 49, are for limiting the rate of interest as stated above. It will be seen that there is a very large volume of evidence to support our recommendation. It may be said that many of the witnesses are debtors themselves and are therefore interested in seeing that the rate of interest is reduced. But it is worthy of note that even respectable persons who have made large investments (witnesses 49, 50, 63, 71, and 74) have come forward to support legislation with retrospective effect. They say that though personally they would be prejudicially affected by such action they would make the sacrifice for the common weal. Among those who are against legislation also there are, it must be admitted, some whose opinion is entitled to great weight. They take their stand mainly on the sanctity of private contracts. That Governments should not, as far as possible interfere in the domain of private contracts is, we admit, a very sound principle which should be respected and strictly followed in normal times and under normal conditions. But when confronted with a crisis like the one through which our State, along with other countries, is passing, Governments all over the world, have never hesitated to infringe even that fundamental principle for the common weal. Instances are not wanting in our own State.—Witness the Tenancy Regulation. Another ground urged against legislation is the prejudicial effect it will have upon creditors who are themselves agriculturists. It is argued that in our State there is not a separate class of professional money lenders as exist in other parts of India, that dealings in money are mostly between agriculturists themselves, that the agriculturist creditors are in many cases small investors who have been equally affected by the fall in prices and who have to depend mainly upon the interest on their investments for meeting their demands and that any reduction in interest rates would tend to make them also debtors in the course of a few years, thereby making matters worse than what they are to-day. In the first place, the premises on which the argument is based are not fully supported by evidence. For, the evidence is that in the majority of cases, the persons who have invested money have done so out of their surplus funds. A Hundi merchant (W. 35) examined at Cranganur, said that loans were generally advanced by the moneyed class and that he himself had invested nearly a lakh and a half of rupees mainly with the agriculturists of the taluk. The evidence gathered at

Narakkal is also to the effect that the bulk of the investments there, have been made by persons and institutions out of their surpluses and that they are not likely to be seriously affected by a slight fall in the rate of interest. To the same effect, more or less, is the evidence tendered in other centres also. Of course, there may be a few creditors in the precarious position depicted by some of the witnesses who are against legislation, but their number must be small. Government can only look to the good of the majority, and in a legislation of this nature, a small minority may have to suffer.

8. The last and the most serious objection taken is on the score of the prejudicial effect such legislation will have on the credit of the agriculturist class. It is feared by some that if the rate of interest is reduced, money may go out of the State; agricultural credit may become seriously curtailed and the position of the agriculturist rendered worse than what it is at present. The Select Committee appointed to consider the Agriculturists' Relief Bill introduced in the Legislative Council of the United Provinces observed as follows on this question.—“It is almost universally agreed that there is a crying need of curbing usury. But all admit that agriculture cannot go on without loans, and that there is no agency which can replace money-lender in supplying the day-to-day needs of the farmer. The State may help to reduce the burden of debt which has, owing to temporary causes, swollen to abnormal proportions; but it cannot, in the scheme of agricultural economy, take the place of the money-lender, who performs an indispensable function. It would be easy to frame a provision that interest above a low limit will be deemed excessive; and the provision would probably become law. But the effect of such a provision would be the undue restriction of rural credit, and more harm than good would result to the farmer. The problem is to devise a means whereby usury can be restrained without agricultural credit being greatly curtailed; and of the two sides of the problem, we think that the latter is even more important than the former. *A severe blow to the money-lender will be the death of the agriculturist.*” (U. P. Government Gazette Extraordinary, dated 23rd November 1933, page 7). The same point was emphasised by Mr. Chintamani, who was a member of that Committee, in a separate note in which he added “I made it clear in my speech in Council in July that while I was ready to support the bills (the Agriculturists' Relief Bill and two other allied bills) under consideration, it was my conviction that by themselves, they would do little to benefit the classes concerned if not supplemented by other and further measures of a substantial nature. In the months which have elapsed that conviction has grown stronger. The supplementary measures which in my opinion are essential are indicated in the note printed as the first part of the annexure to the report of sub-committee 1. In the absence of very early action on those lines, I seriously apprehend that the present bills will, in all likelihood, do more harm than good by seriously restricting the credit of the agriculturist, such as it is.” (Same Gazette, page 12). The supplementary measures proposed by him were deduction of land revenue, opening of land mortgage banks, etc. We admit that reduction of interest will be only a mere palliative. We also agree that unless supplemented by other measures of a substantial character mere reduction of interest rates may not bring any appreciable relief to the agriculturists. But we are unable to subscribe to Mr. Chintamani's view that reduction of interest will do more harm than good or that it will give no relief at all to the agriculturists. It may be noted that in spite of the apprehensions of Mr. Chintamani and some other members of the Select Committee, the bill was passed by the Legislative Council. The bill is now reported to have been referred back by the Governor for reconsideration of certain sections. Other Provincial Governments and States have also passed laws, or introduced bills, practically restricting the rates of interest retrospectively. The Central Provinces have enacted a law establishing Conciliation Boards. The Mysore Government have passed the Mysore Agriculturists' Relief Regulation by which courts are empowered to reduce rates of interest if they seemed to them to be unreasonable. An official Bill has recently been introduced in the Pudukkottai Council which proposes to reduce the rate of interest in proportion to the fall in prices. The bold scheme of debt redemption introduced by Bhavanagar State is well known. There, interest has been reduced retrospectively to about one-fourth of what it was originally. Though apparently no element of compulsion is present in the make-up of that

scheme, the firm attitude taken by the Government must have considerably influenced the creditors in accepting the terms offered. Similar steps have been taken in other countries also. "In several States of Australia, the right of selling mortgaged property has been restricted by legislation and measures have been taken to keep low interest. In these and many other countries, measures have been taken to postpone debt claims, give priority to new loans, convert short-term into long-term obligations, negotiate rent reductions and convert fixed money rents into yearly payments depending on the value of farm produce. In Holland, courts have been set up to negotiate between agriculturist debtors and creditors and compulsory interest reductions have taken place in many countries. In Denmark, Country Boards have been set up with power to postpone interest and amortisation payments, making provision for new loans, granting tax relief, limiting interest rates and so forth." (Professor Thomas—Problem of Rural Indebtedness—page 21). So far as we know, no serious calamity has befallen any of these countries yet. It has to be borne in mind that our recommendations are intended to effect only existing debts and not debts that may be contracted in future. There is, therefore, not much room in our proposals for apprehension on the score of shrinkage of rural credit, because it is only when an attempt is made to restrict interest rates on future transactions also, as is proposed to be done in the United Provinces, that the danger really arises. We are also sceptical about the plea of flight of capital from the State. Confidence in the debtor's character and integrity, easy accessibility to the property proposed to be secured and facility for realising the security in case of non-payment—these are some of the main considerations which weigh with a creditor in investing his money. On all these counts, one is likely to prefer to invest one's money in one's own country even at a slightly lower rate of interest, rather than in a foreign State. The fear that interference with interest rates will unduly curb agricultural credit appears to our mind to be a bit exaggerated. If, after all, there happens to be a slight shrinkage in credit, we should rather regard it as a blessing in disguise in view of the propensity of many of our people to borrow more than they can repay and spend the bulk of the borrowed money for unproductive purposes.

9. Regarding item No. 2 of the reference, we think that retrospective effect should be given from the beginning of 1107. Of those who have sent in answers and the witnesses examined, no less than 381 persons would have the period taken further back to 1104. They would have us believe that depression really began in that year. But in our view, though prices may be said to have begun to fall earlier, the situation became acute only from the beginning of 1107.

10. Turning to item No. 3 of the reference—rate of interest—we will fix the rate for secured debts at 7½% for amounts up to Rs. 1,000 and 6% for amounts over Rs. 1,000. The above rates will apply also to cases of usufructuary mortgage and lease back where rent is payable in money. With regard to unsecured debt, including pledges, we would recommend a uniform rate of 9% for all amounts. 36 witnesses and 265 out of those who have sent in answers are for fixing the rate at 6% for secured debts. There is also a fairly large volume of evidence in favour of the rate of 9 per cent for unsecured loans. In the case of secured loans up to Rs. 1,000, we have slightly raised the rate, because the creditors in such cases would be small investors and would naturally expect, and may stand in need of, a higher return from their investments. The evidence as well as the statistics obtained from the Registration Department show that the general rate prevailing in the State ranges between 9 per cent and 12 per cent mortgages mostly hinging round 9 per cent while simple debts converging on the 12 per cent rate. These rates cannot be said to be unreasonable under normal conditions. But they have now become unreasonable by reason of the slump in prices. Since the price of coconuts and paddy has fallen to one-third of what it was before the depression began, and since the agriculturists have to meet their interest demand by the sale of these commodities, the effect of now compelling them to pay at 9 and 12 per cent would be the same as making them pay at the rate of 27 and 36 per cent respectively, which, no one will deny, is exorbitant. It is this consideration which has mainly induced us to recommend a reduction in the

rates as stated above. We have already observed that the prevailing rate of interest in the State ranges between 9 and 12 per cent. But there are a pretty large number of cases where the rate has shot up to 24 and 30 per cent, the amounts in such cases being mostly less than Rs. 500. What is strange, however, is that there are instances, though rare, where interest up to 24 per cent is charged on mortgage debts amounting to Rs. 5,000. Interest at 12 per cent on mortgage amounts between 5,000 and 10,000 and even on amounts exceeding 10,000 is fairly general in the Kuzhupilly Registry Office. Witness 77, examined at Chittur, as the representative of the Banks at Chittur, says that in the case of loans granted by the Banks there, the rate of interest shown in the pro-notes would be 36 per cent, but interest at 12 per cent alone would be realised if payment was made on the due date. The period for repayment would generally be one month to three months. The interest for that period is realised in advance while a commission of one to two rupees per 100 is realised in advance over and above interest, against risks. The witness admitted that after the depression began, 30 per cent of the customers had become defaulters. That means that 30 per cent of the persons who receive loans from the Chittur Banks have to pay interest at the rate of something like 40 per cent. These facts lead us to suspect that there are in our own State creditors who would beat even the Sowkars of Bhavanagar. It is needless to say how pitiable the lot of agriculturists would be if subjected to such treatment at a time when they are hard hit by the abnormal fall in prices.

11. Some of the members of the Committee were of the view that it would be enough if, instead of fixing a uniform rate, minimum and maximum rates are shown in the Regulation and the courts are given the discretion to award a reasonable rate falling within the minimum and maximum rates. They said that if such a provision were made, courts would be able to give a more equitable decision taking into consideration all the circumstances of each case. The objection to that course is that in that case, almost every transaction will have to end in a suit and a decree, and whatever benefit the debtor may get by the decision of the court would be more than counter-balanced by the trouble he has to undergo and the expenses he has to incur in defending a suit up to the stage of a decree. Parties would rarely come to terms, each party—especially if he is of a litigious turn of mind, as many of our people unhappily are thinking that by taking the matter to court, he would get a more favourable term than the term offered by the other party. If on the other hand, a rate is fixed in the Regulation itself, there would be no temptation for either party to rush to court and if the creditor is reluctant to accept the rate, the debtor can send the amount by money order and keep quiet. Our final conclusion was that it was better to have the rate fixed by the Regulation as we have stated above.

12. Before leaving the subject of rates of interest, we may dispose of certain minor points. For obvious reasons, we would exempt from the operation of the Regulation, loans in kind unless commuted into money and loans where interest is provided for in kind. Loans issued by Co-operative Societies also require exemption because there the dealings are among the members themselves. We are also for doing away with the practice of levying enhanced rate from the date of default and a higher rate for compound interest.

13. We shall next turn to item No. 4 in the reference—other adjustments.—Since we recommend a reduction in interest rate we think it is desirable that additional facilities should be given for the realisation of the reduced rate. It is only equitable that creditors should be compensated at least to some extent for the sacrifice they are asked to make in the matter of interest. Our proposals in this connection are two-fold: (1) if interest is defaulted for one year after the Regulation comes into force, the creditor should, on application to a court of competent jurisdiction to try the suit upon the mortgage, be entitled to be put in possession of the mortgaged property as Receiver and (2) if the creditor, however, is not willing to enter into possession he should have the right to sue for interest alone, in which case the court will have the discretion either to compel the creditor to take possession of the property as aforesaid or to order sale of the property subject to the mortgage. As regards the proposal to put the creditor in possession of the mortgaged property, all were agreed; but as to the

creditor being given the right to sue for interest alone, there was some discussion among the members. Some of the members were of opinion that if the creditors were given such right, the object of the proposed Regulation, namely the prevention of the sale of properties for inadequate prices would be frustrated because a creditor could obtain a decree for interest, bring the property to sale and himself purchase the same for a low price. Others, on the other hand, contended that in some cases entering into possession would be a burden to the creditor and it might not also be feasible in all cases to reduce the property into possession and that since we were giving an option to the creditor to take possession or not, it was necessary that he should be given some alternative remedy. The latter view seemed to be more reasonable; but to avoid the possibility of properties being sold away in every case, it was thought necessary to give courts the power even in the case of a suit, to compel the creditor to enter into possession in proper cases. Another point that has to be disposed of in this connection is the course to be adopted in regard to arrears of interest that may have accumulated at the time the Regulation comes into force. Our view is that such arrears should be added on to the principal at the contract rates up to 1st Chingam 1107 and at the reduced rates for the subsequent period up to the date of the Regulation. The suit for interest, or the taking possession of the property, above referred to, will be with reference to the interest at the reduced rate on this aggregate amount. However, so far as the arrears of interest from 1st Chingam 1107 are concerned, we would give a further concession to the creditor. With regard to such arrears he need not wait for one year after the Regulation comes into force to take action, but may at once apply for and get possession as Receiver, if 25 per cent of such arrears is not paid within one month after demand.

14. The question next arose whether having recommended a reduction in the rates of interest, there should not be a temporary ban against the institution of suits for the principal mortgage amount during the period of the depression. This question also provoked some discussion. Some of the members were of the view that such a prohibition was absolutely necessary if the debtors were to reap the benefit of the recommendations we were making in regard to interest. They said that if no such restrictions were placed, every creditor, would rush to court the moment he knew that the rate of interest was reduced and the position of the debtor would be rendered intolerable. One member even went to the length of asserting that we would be doing a disservice to the agricultural population if we proposed reduction in interest rates and at the same time left them at the mercy of creditors in the matter of suits for the principal amount. The arguments put forward by the members who held the opposite view were shortly these: we cannot say how long the depression will last; so, postponing suits during the period of depression would practically mean postponing suits indefinitely; it would be a clear injustice to have the creditors' money tied up in this fashion; among the creditors there may be persons who are not able to meet their pecuniary commitments except by realising the money they have invested. They (members) also laid stress upon the fact that in none of the enactments passed by other Governments, so far as have come to our knowledge, was there any provision restricting the right of suit though they provided for reduction of interest rates. There is considerable force in the contentions on both sides. We had therefore to find out a middle course and the solution we have arrived at is to allow the right of suit to the creditor, but at the same time to circumscribe that right by certain conditions. Accordingly we have decided to recommend that the mortgagee should be entitled to sue upon the mortgage during the period of depression only if the money was required for his own personal use. The following illustrations will make our meaning clear:—

(1) A—a mortgagee, owes money to B. B issues a registered notice to A demanding the amount. A is unable to meet the demand except by borrowing. He can sue for his mortgage amount.

(2) A—a mortgagee, has to give his daughter in marriage. He cannot find the money necessary for marriage expenses except by borrowing. He can sue upon the mortgage.

(3) A—a hundi merchant, has invested money on mortgage. He is short of funds for advancing loans to his customers. He is not entitled to sue for the mortgage amount.

We hope that the above proposal will prove satisfactory; for, while it will check malicious or vexatious suits, the mortgagee would be able to fall back upon his mortgage amount in cases where he finds himself in money difficulties.

15. Before passing on to the next item—item 5 in the reference, we would like to make some substantive proposals. We have already stated our conviction that reduction of interest rates by itself will not afford appreciable relief to the ryots unless supplemented by measures of a more substantial nature. We spent some thought over the subject; and one feasible measure that suggested itself to us was the opening of a Land Mortgage Bank, State-aided or State-owned. We do not propose to elaborate the details of the scheme, which should be left to experts. What we are particular about is that it should be a bank which could supply long-term credit to agriculturists on easy terms. The difficulty of finding money can be overcome by issuing debentures. If practicable, the Bank should have a separate department for supplying short-term credit to ryots, payable at the succeeding harvest, for enabling them to carry on agricultural operations. The scheme, we know, is beset with difficulties. But those difficulties, it should not be beyond the capacity of experts to solve.

16. Necessarily the above scheme would take time to materialise. But what we want now is to devise some means to give immediate temporary relief to agriculturists debtors. The only course we can suggest is the expansion of the scheme already sanctioned by the Government for advancing a loan of five lakhs of rupees. We would recommend that the amount sanctioned should be raised substantially. We would also suggest certain modifications in the terms offered. One of the present conditions is that compound interest would be levied at 7½ per cent. We think that it is rather high. Consistent with our recommendations contained in this report, we would limit the rate for compound interest to the original rate of 5½ per cent. The next alteration we propose is that interest alone should be realised during the period of depression and lastly that amounts up to 2/3 of the value of the property should be advanced by way of loan. Some discrimination should also be used in the issue of loans. Loans should not be granted to all and sundry, but only to deserving persons. We would divide debtors into three classes; (1) those who have passed the stage of redemption, i. e., those whose debts exceed their assets; such persons cannot be saved; and it will be better for all concerned if land passes out of the control of such improvident men and gets into more competent hands, (2) those who can command credit in the market, i. e., those whose debt is very small compared to their assets and are able to stand on their own legs, (3) those who can be saved but only with the help of the Government. Take the case of a man who has properties worth Rs. 15,000 and whose indebtedness is Rs. 6,000. Such a man will find it extremely difficult, if not impossible, to raise a loan on reasonable terms in the market to pay off his debt. But under the rules we have suggested, he could easily get Rs. 6,000 from Government with which he could clear his debts. And since he has to pay interest alone for the time being, he would certainly have a chance of getting round the period of distress by a judicious use of his income from the property. Our suggestion is that loans may be given only to debtors falling under the third class and not to those coming under classes one and two. Even in their case, other things being equal preference may be given to those debtors whose creditors are willing to forgo any portion of the amount due to them. Of course an enquiry would be necessary as to the financial position of the applicants, but it need not be an elaborate or meticulous one. This scheme is put forward only as a temporary measure and as a preliminary step to the opening of the Land Mortgage Bank, and when that Bank is brought into working order, the transactions effected under the present scheme should be made to merge therein.

17. We shall next pass on to the last item—item 5—in the reference—KURIES. We find that the position of the agriculturists has worsened since the Kuri Committee submitted their report two years back. Some further relief is therefore necessary with regard to kuries. The first measure of relief we would propose is the extension of the interval between kuri instalments. We

would suggest that the number of instalments should be halved except in cases where a majority of 60 per cent of all subscribers wish to continue the kuri as before. All monthly kuries will be excluded from the operation of the Regulation. There is a very large volume of evidence in favour of extending the interval between instalments. As a compensation to the non-prized men, we suggest, that interest at 6% may be levied from the prized men upon the amount of subscription they would have had to pay for the deleted instalment, for the period intervening between that instalment and the succeeding one, and the same distributed among the non-prized men. Mr. T. K. Sankara Menon is of the view that reduction in the number of kuri instalments, coupled with a substantial reduction in interest rates and a ban on mortgage suits, would give appreciable relief to the agriculturists. His view is supported to some extent by the statistics supplied by him. The statistics show that the people of Nayarambalam village owe a kuri debt, i. e., amount to be subscribed to kuries by prized men of Rs. 1,93,968 or 2 lakhs in round figures. Supposing these kuries have, on an average, five years more to run, the amount the prized men have to contribute each year will be Rs. 40,000. We may take that approximately an equal amount has to be subscribed annually by non-prized men; the two items together would come to Rs. 80,000 a year. By halving the kuri instalments the people of the village will be relieved to the extent of Rs. 40,000 a year, which is no small matter.

18. We have recommended to exempt the monthly kuries for special reasons. In these kuries subscriptions have to be paid, and tickets are drawn, every month. Agriculturists very rarely, if at all, join them, because they would not be able to make payments monthly out of their income. Those who take tickets in these kuries are men who have a more or less fixed monthly income such as officers, lawyers, doctors, merchants, etc., and even of this class many come from outside the State—such as Madras, Bombay and Ceylon. They are not seriously affected by the depression, and the concensus of opinion of the witnesses examined at Trichur, where most of the kuries of this nature exist, was that this kind of kuries need not be disturbed. Hence our recommendation to exempt them.

19. The other proposal we have to make with regard to kuries is in regard to suits instituted by kuri starters against prized men who have defaulted payment of kuri subscriptions. The witnesses are almost unanimous that in such cases the suit should initially be for the defaulted amount alone and in case that amount with interest and costs is not deposited before commencement of the recording of evidence, the plaintiff should have the right of converting the suit into one for the full amount on payment of the necessary additional court fees. Since, as we have said, the witnesses are almost unanimous on the point, we have no hesitation in recommending the proposal for the acceptance of the Government. Such suits should be instituted in the court competent to try a suit for the full amount; otherwise, in cases where money is not deposited and the suit is converted into one for the full amount, it may be found that the amount falls beyond the jurisdiction of the court, necessitating transfer of the suit to a higher court and resulting in duplication of work and waste of money.

We may add that the above proposal is in full accord with the resolution passed in the Legislative Council and which has been communicated to us for consideration. (D. P. I-Dis-8036/1109).

20. We have included a provision empowering the Government by a notification in the Gazette to exclude any particular area from the operation of the Regulation. We have been prompted to make this provision by reason of the evidence given by some of the witnesses that in Kunnamkulam and the surrounding places where arecanut is an important source of income, the agriculturists are not seriously affected. Very few witnesses turned up from that quarter and we were not therefore in a position to fully ascertain the truth of what the witnesses had said. We think that initially the Regulation must affect that area also. But it is possible that in course of time any particular area may reach such a stage of prosperity as not to require the help of the Regulation, earlier than the rest of the State. In such an event that area has to be excluded and hence the necessity for arming the Government with such power.

The Government must also have the power, by notification in the Government Gazette, to revoke the Regulation when, in their opinion, the emergency has passed.

21. Two resolutions passed by the Maradu and Narakkal Panchayats, respectively, recommending reduction of pattom, etc., were forwarded to us for our consideration by the Diwan's office in the course of our enquiry (Huzur reference L-Dis-12970 of 1109, dated 24th April 1934 and L-Dis-14146/1109, dated 17th May 1934). As the subject did not form part of the terms of reference, it was not possible to include it in the questionnaire or otherwise to invite the opinion of the public on the matter. All that we have on record is the cursory statements of a few witnesses. Without hearing the objections, if any, of landlords and others who are to be seriously affected by such a course, it will not be fair on our part to express an opinion. We regret, therefore, we are unable to make any recommendation on the subject.

22. Our recommendations are summarised below.—

(1) It is desirable to pass emergent legislation temporarily to limit both retrospectively and prospectively, the rates of interest on the existing debts, secured and unsecured owed by agriculturists.

By existing debts, we mean debts that would be subsisting on the date on which the proclamation or the Regulation as the case may be, is issued or passed.

We define an agriculturist as follows:—

An 'agriculturist' shall be taken to mean a person who ordinarily engages in agriculture by himself, his servant or his tenant and who has no income assessed to income-tax. If an agriculturist and a non-agriculturist jointly take a loan, that debt will not be regarded as a debt owed by an agriculturist.

Loans in kind unless commuted into money, loans where interest is provided for in kind as also loans issued by Co-operative Societies should be excluded from the operation of the Regulation. Loans issued by all other institutions, including banks, will fall within its purview.

(2) Rate of interest should be limited with effect from 1st Chingam 1107.

(3) (a) The rate of interest on secured debts should be 7½ % for amounts up to Rs. 1,000 and 6 % for amounts above Rs. 1,000. These rates will also apply to mortgages and lease back where rent is payable in money.

(b) The rate on unsecured debts should be 9 % for all amounts.

Compound interest will be allowed with annual rests, but only at the original rate levied on the principal amount.

Enhanced rate of interest from date of default should be done away with. Satisfaction of interest already effected, either by cash payment or by execution of documents should not be reopened.

(4) (a) Additional facilities should be given for the realisation of the reduced rate of interest and for that purpose the following provision should be incorporated in the Regulation; if a debtor defaults payment of interest (prospectively) for one year after the Regulation comes into force, the creditor will, on application to the principal court of competent jurisdiction in which a suit for the principal amount will lie, be entitled to be put in possession of the mortgaged property as Receiver; or he may, in the alternative, sue for interest alone, in which case the court will have the power to compel him, in proper cases, to take possession of the property as Receiver or to order sale of the property subject to the mortgage.

(b) If there are arrears of interest on the date on which the Regulation comes into force, the same should be added on to the principal at the contract rates up to 1st Chingam 1107 and at the reduced rates for the subsequent period up to the date of the Regulation; and the suit above referred to or the entering into possession as aforesaid, will be with reference to the interest on

this aggregate amount. With regard to the arrears of interest from 1st Chingam 1107, however, the creditor will have the right to get possession of the property as Receiver soon after the Regulation comes into force, if 25 per cent of the same is not paid within one month after demand.

(c) A mortgagee will not be entitled to sue for the principal mortgage amount during the period of depression unless it is required for his own personal use.

(d) A Land Mortgage Bank, State-owned or State-aided, should be opened. This Bank should be able to supply long-term credit as well as short-term credit to agriculturists.

(e) As a temporary measure and as a preliminary to the opening of the Land Mortgage Bank, the scheme now sanctioned by Government for giving 5 lakhs of rupees as loan may be expended as follows: the amount should be substantially raised; interest alone to be realised during the period of depression after which the principal also to be collected in 20 yearly instalments. Compound interest not to be levied at more than the original rate of 5½% and amounts up to 2/3 of the value of the property to be advanced by way of loan; when the scheme about Land Mortgage Bank materialises, all transactions effected under the loan system should merge in that Bank.

(5) (a) In the case of all kuries, the number of instalments should be halved, i. e., tickets should be drawn or bid as the case may be, only at alternate instalments except in cases where a majority of 60 per cent of all subscribers wish to continue the kuri as before. The prized man will be liable to pay interest at 6% on the amount he would have had to pay for the deleted instalment, for the period intervening between that instalment and the succeeding one, and the amount thus levied should be distributed among the non-prized subscribers. All monthly kuries will also be excluded from the operation of the Regulation.

(b) In the case of suits upon security bonds furnished by prized men who have made defaults, the suit should initially be for the defaulted amount alone, and in case the defendant does not deposit that amount with interest and costs before the commencement of the recording of evidence, the plaintiff should have the right to convert the suit into a suit for the full amount on payment of the necessary additional court fees. Such suits should be instituted in the court competent to try a suit for the full amount.

(6) The Government may exempt any area from the operation of this Regulation by notification in the Government Gazette if they are satisfied that that area has attained such a state of prosperity as not to require the help of the provisions of the Regulation. The Government will also have the power, by such notification, to revoke the Regulation itself when, in their opinion, the emergency has passed.

23. If the above recommendations are approved, we suggest that a Royal Proclamation embodying them may be issued or a Bill on those lines introduced in the Legislative Council as early as possible. In view of our suggestion to restrict the right of suit for the principal mortgage amount, we think it necessary to issue a Royal Proclamation prohibiting the institution of such suits and staying proceedings in suits already instituted, till the Government pass final orders on this report or until further orders.

C. V. Antony (Chairman) (Sd.)

K. Achyuta Menon (Sd.)

Rama Varmha Tampuran (Sd.)

Thomas Manjuran (Sd.)

K. Ayyappan (Sd.)

M. A. Chakko (Sd.)

Ambadi Sankara Menon (Sd.)

A. R. Menon (Sd.)

T. S. Narayana Ayyar (Sd.)

U. Kandar Menon (Sd.)

27-10-09 (Subject to a supplementary note)

(Subject to a supplementary note)

(Subject to a separate note)

9-6-34 (Subject to a supplementary note)

(Subject to a dissentient note)

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9-6-34 (Subject to a supplementary note)

Trichur,

9th June 1934.

SEPARATE NOTE BY Mr. K. AYYAPPAN.

I do not agree with the view, taken in the report, that the Agriculturist debtors have themselves mainly brought about their present difficulty, by their improvidence and speculative land-mania. It is true that a large section of the debtors had, in pre-depression days, purchased lands with encumbrances, without any prospect of immediate cash to clear them. But it has ever been a practice common among our Agriculturists. The rich among our land-owning class are mostly those who have come by their lands by this very process. It would have been successful in the case of the present Agriculturist debtors also, if the unforeseen world depression had not falsified all reasonable forecasts of agricultural incomes, and would have earned them the reputation of being thrifty and enterprising. It is neither proper nor scientific to characterise them now as improvident and speculative. The Agriculturists cry for help from the Government to extricate themselves from a calamity which, if judged impartially is neither their creation nor in their power to remedy solely by their efforts. If the committee find it difficult to propose adequate measures for their relief without incurring the much feared wrath of the very powerful and influential creditor class, they could have at least refrained from blaming, though perhaps unconsciously, the poor victimised debtor class, for imaginary recklessness, which is what the committee's reading of the present state of affairs comes to. This sadly mistaken impression of the committee is mainly responsible for the illiberal nature of the proposals they have made.

Another thing that has to be borne in mind, in suggesting measures for the relief of the debtors, is that no substantial relief can possibly be given to the debtors without compelling the creditors to make some little sacrifices on their part. It is cruel and unwise to invoke sanctity of contracts against adequate relief measures being taken for rescuing the vast majority of the agriculturists from a general calamity like that of the present indebtedness in the State. All Laws including contractual laws are made for the general welfare of the Society. If the laws themselves threatened to go against the very purpose for which they are made, it will be bad state-craft to hesitate to modify and, if necessary, even to scrap them. If the Society refuses to change the laws that have grown, by force of circumstances, inimical to its general well-being, the laws themselves will change the Society. Everywhere in our State, the majority of the agriculturists are heavily involved in debt and are fast running into sure ruin. To remedy such a state of affairs is necessary even in the interests of the creditor class; for the Society pervaded with discontent and despair cannot be conducive to the welfare of any section of it, however affluent it may be!

With these general remarks, I have to suggest a few modifications in the proposals in the report. Interests for all debts, whether secured or unsecured, whether above Rs. 1,000 or below, it must be reduced to six per cent. Debtors whose debts have been contracted at a low rate of interest already are also in need of some relief. For their benefit, reduction of interest must be so conditioned as to effect at least 25 per cent reduction of all contractual interests however low they may be. The reduction of interest must be given twelve years retrospective effect. Even in normal times, creditors generally allow large reduction in long accumulated arrears of interest. So the lengthening of the retrospective effect will not be felt as hard by reasonable creditors. If this is not done the reduction of interest will not give any substantial relief to those debtors who have long accumulated arrears to pay. The benefits of the retrospective effect must be given also to those debtors who have already paid their interests within the last six years of the retrospective period.

The present agriculturists' indebtedness is such as calls for reduction of not only interest, but of the debt itself. Many Governments have in recent times resorted to debt-reduction schemes for the relief of the depression-hit debtors. But our committee cannot propose any reduction in the debt as the committee's terms of reference are unfortunately circumscribed to the consideration of the reduction of interest alone.

Whatever the Government are going to do towards giving relief to the debtors has to be done immediately. Any delay will worsen the condition of the debtors and further increase the difficulty of the Government for taking relief measures.

(Sd.) K. AYYAPPAN,
Member, Economic Depression Relief
Measures Enquiry Committee.

SUPPLEMENTARY NOTE.

I wish to add a few words about two of the recommendations contained in the main report :—

(1) *Para 10 of the Report.*—This paragraph contains a recommendation that a uniform rate of 9 per cent should be adopted with regard to all unsecured debts which would include, of course, debts owed to Banks as well. I regret my inability to agree to the recommendation without some qualification. I think that either the rate should be raised to 12 per cent or some special provision should be made so as to exclude debts owed to Banks from the operation of the 9 per cent limit. The evidence collected by the committee shows that several Banks have received fixed deposits at rates of interest extending from 5½ to 8 per cent. In the case of Banks that have received deposits at such high rates, it would obviously be inequitable to compel them to limit the rate of interest to be received by them to 9 per cent. There is always a certain element of risk in connection with unsecured loans advanced by Banks and there is also the cost of the Bank's establishment to be taken into account. Several of the Cochin Banks are small concerns which may not be able to survive the shock of a sudden and violent reduction of their income.

(2) *Para 14 of the Report.*—One of the recommendations contained in this paragraph is that a mortgagee should be entitled to sue upon the mortgage during the period of depression if the mortgage money is required for his own personal use. I regret inability to agree with this recommendation also. I think that the safeguards and facilities provided in the report in the interests of the mortgagees, particularly those referred to in clauses 4 (a) and 4 (b) of paragraph 22 of the report, should satisfy the mortgagees. If the mortgagees were to be allowed to sue for the mortgage amount on the ground of personal necessity there is the chance of such a provision being freely abused. Some pretext of personal necessity could be easily found and the ban against suits might be got round by resorting to subterfuges. Mortgagees who really require the money for bona fide personal use might, besides, mortgage, or sell their mortgage rights and thereby raise the required money more readily than by suing in a court of law. I would, for these reasons, ban mortgage suits altogether during the period of depression.

Ernakulam,
21st June 1934.

THOMAS MANJURAN,
Government Advocate and Law Officer.

NOTE BY THE DIWAN PEISHKAR.

I have signed the report because I am in substantial agreement with the conclusions embodied therein. There are one or two matters however dealt with in the report on which I hold different opinions. I think it is only fair and proper that I should give expression to my views, although I am perfectly aware that it is very highly desirable that important reports like these should not be burdened with notes of dissent. I am not in sympathy with the recommendation to allow the arrears of interest, whatever they are, to be added on to the principal amount on the date on which the proposed legislation takes effect. A careful scrutiny of the applications for loans received by the Special Loan Officer appointed by Government, has disclosed the fact that in many cases large arrears have been left by the agriculturists debtors of this State. It is in my opinion neither desirable nor profitable to enquire how far non-payment of interest on the prescribed dates, has been justifiable or not. It might with equal justice or logic, be argued that there were times in the history of the loan when even the principal amount could have been paid off and that not having done it, the debtor who has left the debt outstanding is not entitled to any consideration. I feel no doubt whatever that the inclusion of the arrears of interest in the capital amount in the way proposed would mean taking away much of what is proposed to be given to the debtors. My position can be made clear by a few illustrations:—

A owes *B* Rs. 1,000. Let us suppose that the rate of interest agreed to be paid is $7\frac{1}{2}$ per cent. The amount payable for one year would then be Rs. 75. If interest is in arrears for four years prior to 1107, the amount that will be added to the principal amount, not taking compound interest into consideration, would be Rs. 300. This extra amount would also be carrying interest at 6 per cent per annum and that comes to Rs. 18. The entire interest payable on Rs. 1,300 therefore for any one year would be Rs. 78, *i. e.*, Rs. 3 actually in excess of that on Rs. 1,000. The position is much worse if the interest after 1107 is also added on even though at the reduced rate.

The underlying assumption in the recommendation for a reduction of interest is the inability of the debtors to pay the dues contracted for and that being so, it seems to me that this sort of conversion of the arrears of interest into the principal amount and the augmentation of the latter would amount in the vast majority of cases, to a perpetuation of the existing inability on the part of the debtor to meet the recurring obligations. I am therefore for definitely negating any right to interest on the part of the creditors for the interest in arrears on the date of Regulation, quite irrespective of the period for which it is in arrears. It may be added on to the principal but this portion of the principal should not carry any interest *until such time as the emergent legislation, is in force and only until then.* I am not much impressed with the argument that even interference to this extent would be a most unwarranted interference with the sanctity of private contracts and would augur the destruction of agricultural credit in this country. Compound interest, although provided for in many documents is seldom levied in actual practice by the better class of investors.

There is yet another matter on which I disagree from the view expressed in the report and that is the proposal enabling the creditor to sue for the amount including the principal even during the period of depression, if the amount is needed for personal use. This is an exception, which, in my opinion is likely to eat away the rule. The words "personal use" are very elastic and are capable of taking in anything from a trip to Madras to a gift to one's wife and children; and if at all that is needed is an allegation or even some proof that you want it for some ostensible personal use such allegation or proof will hardly be wanting in any case. I lean towards the opinion that this liberty to call in the principal moneys and interest during the period of depression even for personal use, should be accompanied by a statutory conferment of powers on courts to pass instalment decrees, irrespective of the consent of the parties or decrees fixing a time limit for payment or other equitable conditions, due regard being had to all relevant circumstances.

There is just one more matter on which I would like to make a small addition to one of the committee's proposals. I agree that if, even the reduced interest is left in arrear for a year, the creditor should have the right to apply to get possession of the lands mortgaged, but I would, even in that case, propose that the debtor should be relieved from the consequences of non-payment if he deposits the defaulted interest at 6 per cent on or before the first hearing date of the petition. I would suggest the same thing in the case of recommendation No. 4, clause (b).

I have nothing more to add.

K. ACHYUTA MENON,
Diwan Peishkar.
8th Mithunam 1109.

DISSENTIENT NOTE BY MR. A. SANKARA MENON.

I agree with the review of the present position and the causes of agricultural indebtedness contained in paras 3 and 4 of the report. I also agree that Government would do well to take action at once which would bring real and substantial relief to the large body of agriculturists now groaning under the burden of heavy indebtedness. But the nature and extent of the remedy undertaken must be equal to the extent and nature of the disease. The reference to the present Committee, however, is very limited indeed, in spite of the name given to or assumed by it and the popular impression about its scope. And to that reference in my humble opinion an affirmative answer cannot be returned without an all important qualification.

2. When after the recording of evidence the Committee met for discussion, it was suggested at a very early stage that perhaps there is only one possible way of affording sufficient and extensive relief to the innumerable agriculturist debtors. Long-term loans, say for forty or fifty years, at 4 per cent interest for redeeming the creditors, collection of interest alone during the period of depression and after that period interest together with 2 or 2½ per cent of the principal amount annually—was the means suggested. It was also mentioned that Government ought to find the money themselves or at once start a land mortgage Bank under their control for the purpose. It was also pointed out that reduction of interest by itself cannot in any way be more than a mere palliative and some doubted whether the disadvantages flowing out of it may not counter-balance any apparent or nominal relief to be expected therefrom. I said that a compulsory reduction of the rate of interest should come in, if at all, only as an aid to some other form of substantial relief and in my opinion such reduction should not be enforced unless you are prepared to pay off the creditors. On the other hand, it was argued that we would be going outside the reference in returning such an answer but there is no objection in indicating that the advance of loans on very easy terms to the agriculturist debtor and the institution of a land mortgage Bank are indispensable for affording adequate relief. On the one hand it was thought that we are bound to return an unconditional positive reply if we come to the conclusion that compulsory reduction of interest would afford relief however small it may be; on the other hand it was thought that only a qualified answer should be returned as the redress would only be in name and the reference cannot stand in the way of such a recommendation. I still maintain that, if rates of interest are to be cut down at all, it must be on condition of redeeming the debts themselves and not otherwise. I shall very briefly indicate my reasons for taking this view.

3. Rates of interest range generally between 7½ per cent and 12 per cent per annum. If we take the last fifty years or more, it will be found that the same rates were as a rule in force. In the case of hundi merchants and the small indigenious banks which have now taken their place, higher rates were no doubt charged. Even after the commencement of the depression, there is no appreciable change in these rates of 7½ to 12 per cent. The public consciousness is therefore clear that these rates are only reasonable even now and cannot be regarded as exorbitant. There would seem to be then no justification for interfering with these rates. The public do not regard rates of interest above 12 per cent with favour or as reasonable and it would be well to provide against the levying of interest above 12 per cent. That can be done as a permanent measure in the enactment of the Usurious Loans Bill which is now before the Legislative Council. The report concedes that "these rates (i. e., 7½ to 12 per cent) cannot be considered unreasonable under normal conditions. But they have now become unreasonable by reason of the slump in prices". I am afraid that the latter statement is only an inference as to what ought to be the result from the slump in prices but that inference cannot be accepted as correct in the face of conduct and practice among the people which would still adopt these rates though the slump in prices has been long going on.

4. In our State the problem of agricultural indebtedness has to be solved not between the agriculturists as a class and professional money-lenders as a class. Here the large majority of creditors are themselves agriculturists and many of them are only small investors who depend upon the income upon their investments for meeting their daily expenses. They have been as much affected by the slump in prices as their debtors and I am afraid that a reduction in the

rates of interest would affect them considerably so that they may not be in a position to get along without themselves being compelled to borrow. That these investments are from their savings is no answer. The assumption that the number to be affected must be small and they can be sacrificed in the interests of the majority cannot I believe be supported upon the evidence before us. Enquiry has not also been made in that direction and my own experience points the other way. There seems to be therefore some force in the opinion that an inquiry into the nature of the debts and the relative position of the creditors and debtors should be made and this task can very well be left to the impartial decision of the Courts. However that may be, legislation for reducing interest should not in my opinion be undertaken until we have sufficiently ascertained the position of the agriculturist creditors and the extent to which they would be prejudicially affected by the proposed law.

5. On one point there is thorough agreement among the members of the Committee. In the words of the Report, "Reduction of interest is admitted to be only a palliative and unless supplemented by other measures of a substantial character, mere reduction of interest rates may not bring any appreciable relief to the agriculturists." Restriction of rates ought then to be used only as an aid and not independently. It seems also to be conceded that, if rural credit would be affected by the reduction, legislation ought not to be undertaken. But then it is argued that such would not be the result. The very argument advanced shows that it would be one of its natural effects but escape is sought from this undesirable position by leaving the future rates to the sweet will and pleasure of the parties. In the first place, my own impression is that rural credit will be considerably affected by the forcible restriction of interest; in the second place I can see no good reason for making a distinction between existing and future debts and creating two sets of creditors, the favoured and unfavoured set. Why should A who lends his good money and stipulated only for a reasonable rate of interest be told, "You can have only a smaller rate now, and not only that, you shall not collect the principal also", while at the same time, you tell B who has some money to invest, "You can have your own rates and collect principal and interest whenever you like. You are clear out of the new law." I cannot see any justification for introducing this distinction except the fond hope that the credit of the agriculturists would not then be prejudicially affected.

6. Action in other countries and States is pointed to us justifying legislative interference here. With regard to many of them, we have no evidence before us of the circumstances which led to Government action. An examination of the few instances in which we have such material leads me to the opposite conclusion. Legislation was there undertaken to save the agriculturists from the professional money-lender whose exorbitant rates and dubious methods were in a large measure responsible for the downfall of the former. Here the case is entirely different. The peasant cannot even point to the creditor as a contributory cause of his indebtedness. He does not ask to be saved from professional money-lenders or from unconscionable rates of interest. How can you then seek to justify legislation here on the strength of the so-called foreign examples and parallels which would on scrutiny be found to be directed against the unscrupulous money-lender?

7. The action of the Bhavanagar Darbar has been for long the stock example. I shall therefore examine that case at some length. In that State there was a class of professional money-lenders whose ordinary rate of interest was 25 per cent and who very often by strange subterfuges made the principal amount more than to double itself in the course of a single year. The land was the property of the Government and the debt had to be collected out of the annual yield. And things had reached a stage where the creditor could not ever hope to collect a large portion of his dues and what he could with diligence collect had to be spread over a large number of years. The State then did interfere and it is interesting to note in what way it was done. The creditor was paid his principal and 12 per cent simple interest upon it in a lump and the agriculturist was enabled to do so by the State advancing to him loans at the rate of 4 per cent per annum. The result was that the creditor got in a lump more than what he could ever expect to get in the course of a number of years and the agriculturist was also saved by his being put in a position to pay in easy instalments the new loan and interest out of the yearly profits.

8. The policy adopted by the Bhavanagar Darbar is more against the recommendation contained in the Report than in its favour. It shows however, that the remedy undertaken must be commensurate with the extent of the disease. And I wish that our Government would venture upon a bold step which would at once redeem the debt and relieve the agriculturist debtor without biting hard the agriculturist creditor. The way may at first seem beset with many an obstacle but, with a strong will and a determination to set things right, the goal may not be so difficult of achievement as at the start appears.

9. I doubt whether it would be just to ignore all distinction between creditor and creditor and between debtor and debtor. Why should a mortgagee of cocoanut gardens from a landlord who collects the stipulated rent in money be asked to cut down his interest. Then again why should mortgagees of arecanut gardens be made to forego any portion of their claims? Why should a creditor who depends upon his interest for expenses which have not been affected by the depression be told to receive a lesser rate of interest? Why should again a debtor be relieved whose intention was to pay the interest not out of the profits of his land but by other means? I would warn against the assumption that such instances are rare. I referred to them however only for the purpose of showing that there may be no justification in ruling out in toto an inquiry into the nature of the debts. But if it is desired to take the matter out of the hands of the Courts the distinction has of course simply to be ignored.

10. I would for the foregoing reasons refrain from recommending interference with contractual rates of interest up to a maximum of 12 per cent per annum and I am strongly against any such interference if it is not accompanied with an offer to redeem the debt. To give up a reasonable part of the accumulated interest, almost every creditor would now readily consent without any compelling law. Legislation to prevent him from demanding his money back appears to me to be more serious than the reduction of interest, and that would be manifestly unjust as it would hit hard many a creditor who is an equal sufferer with his debtor by reason of the slump in prices.

11. I am generally in agreement with the subsidiary proposals contained in the report. The definition of the word seems however to be unduly wide. The landlord who does not incur any risk in the cultivation of the land, in the sowing or raising of crops, has no right to be included in the definition. The ordinary meaning of the word would also exclude him. I am therefore for suggesting that the word tenant in the definition should be changed into varum tenant for it is well known that in his case the landlord supplies the seed and shares the crop and has a risk in the cultivation.

12. I would also not recommend a preliminary Royal Proclamation prohibiting the institution of suits or staying proceedings in suits already instituted. If Government resolve to reduce rates of interest by legislation, the law must be made and promulgated without any appreciable delay. It would then be very easy to make suitable provision in respect of suits now pending or hereafter instituted though they have in the meanwhile culminated in decrees. In saying this, I have only too well in mind what has happened and is now happening in respect of similar proclamations in the case of Tenancy legislation.

(Sd.) A. SANKARA MENON,

SUPPLEMENTARY NOTE BY Mr. U. KANDAR MENON.

I regret I am unable to approve of the recommendations made in the main report in their entirety. As regards the proposed emergent legislation to restrict the rates of interest on existing debts contracted by agriculturists I have to state, at the outset, that the problems raised by the proposal are, as observed by the Diwan himself, very complex and require careful consideration. Such a piece of legislation is bound to affect adversely a large number of agriculturists themselves who stand in the position of creditors. The abnormal fall in the prices of agricultural products has seriously affected not only the agriculturists' debtors but also the agriculturists' creditors so that any reduction in the rate of interest on investments made by the latter will make it difficult for at least the majority of them to meet their pecuniary obligations. Reduction of interest on existing loans is sought to be justified on the ground that the purchasing power of money has considerably risen on account of the fall in the prices of articles. There is abnormal fall only in the prices of agricultural products. The agriculturists' creditors or at least the majority of them may not have any necessity to purchase these articles so that the fall in prices does not in any way help them. The evidence before the Committee unmistakably shows that there is no difference in the prevailing rates of interest before the depression began and after it became very acute. The absence of any necessity to restrict by emergent legislation the rates of interest on existing loans is therefore obvious. So far as I have been able to ascertain no such emergent legislation has been passed in any other state or province in India. I am aware that attempts are being made in certain states and provinces to regulate even retrospectively the rates of interest on debts contracted by agriculturists, but the purpose and effect of these measures are quite different from those of the emergent legislation proposed to be introduced in the State. The normal rates of interest prevalent in those states and provinces are very excessive and are almost in all cases usurious. It is with a view to curb usury and afford some relief to agriculturists who suffer from chronic indebtedness that those states and provinces have undertaken such legislation. Admittedly the prevailing rates of interest in our State are generally fair and reasonable. Instances have no doubt come to our notice to show that in certain parts of the State high rates of interest are sometimes charged on loans given to agriculturists, but such instances are few and far between and the remedy to prevent the levying of such high rates of interest lies in the enactment of an Usurious Loans Regulation on the lines of similar enactment in force in other states and provinces. Though, for the reasons stated above, there are not sufficient grounds to pass an emergent legislation on the lines indicated in the report, I would agree to the proposal in the larger interests of those who have been more seriously affected by the present depression.

2. I cannot however agree to the rates of interest proposed in the report unless arrangements are simultaneously made for the redemption of the debts and for the supply of cheap credit to petty agriculturists who always stand in need of such credit. If, for any reason, the Government are unable to do so, in my humble opinion, the only reasonable course to follow would be to fix maximum and minimum rates of interest to be charged on both secured and unsecured debts contracted by agriculturists and to leave it to the discretion of the court to determine what would be a reasonable rate of interest in respect of each transaction according to the circumstances of each case. In determining the rate of interest the court may be guided by the following considerations:—

- (1) The position of the debtor.
- (2) The position of the creditor.
- (3) The amount of the debt.
- (4) The rate of interest which the debt was carrying.
- (5) The period during which this rate of interest was being realised.
- (6) The general prevailing rate of interest in the locality.
- (7) Any other circumstance which the court considers relevant in determining the rate of interest to be awarded in the case.

I think that it would be fair to fix a minimum rate of 6 per cent and a maximum rate of 9 per cent in the case of secured debts and a minimum rate of 9 per cent and a maximum rate of 12 per cent in the case of unsecured debts. In the majority of enactments passed or proposed to be enacted in other states and provinces no fixed rates are laid down, but discretion is given to the court to

determine the rate of interest to be awarded in each case. Only in one instance, viz., in the Agriculturists' Relief Bill passed by the Legislative Council of the United Provinces, I find that the rates of interest are fixed in the Bill itself, but the rates provided for there are much higher than those proposed in the majority report. In the official bill recently introduced before the Pudukotta Legislative Council, provision is made for reduction in the rate of interest in proportion to the fall in prices, but its operation is confined to persons whose main occupation is cultivation of lands. Among the agriculturists' creditors there would be many small investors who have to depend mainly upon the interest on their investments for meeting their demands. They may not therefore be in a position to reduce the interest to the extent proposed. To avoid such hardship it is only fair that discretion is given to the court to determine the rate of interest to be awarded in each case. The only objection to this course even according to the opinion of the majority of the members is "that in that case almost every transaction will have to end in a suit and decree and whatever benefit the debtor may get by the decision of the court would be more than counterbalanced by the trouble he has to undergo and the expense he has to incur in defending a suit upto the stage of the decree." It will be impossible to avoid litigation if the parties are so inclined, whatever be the nature of the precautions taken to prevent it. Even if the recommendations made in the majority report are accepted in full, there is still ample scope for litigation if the parties are of a litigious turn of mind. The award of costs of the suit is within the discretion of the court. If the creditor without accepting a reasonable rate of interest offered by the debtor institutes a suit, it is open to the court to refuse him his costs and also make him liable for the costs of the debtor defendant. Under these circumstances it is very unlikely that the creditor will go to court if he is offered a reasonable rate of interest and I should think that the apprehensions entertained in this respect are not well founded.

3. I do not see sufficient justification for extending the scope of the proposed legislation to debts contracted after the depression began. Admittedly the situation became acute from the beginning of 1107. I would accordingly modify the definition of the term "Existing debt" as follows. Existing debt means and includes only debts contracted before the beginning of 1107 and subsisting on the date on which the Proclamation or the Regulation as the case may be is issued or passed.

4. In the absence of a debt redemption scheme I am emphatically of opinion that the scope of the proposed enactment should be limited to persons whose main occupation is cultivation of lands. The copious extracts, contained in the majority report regarding the pitiable condition of the ryots, refer to them alone and not to the agricultural land owners who lease their lands to tenants and realise the rent due to the last pie. It should not be understood that I have no sympathy towards these landed proprietors, many of whom are now immersed in debts. They are equally hit hard by the abnormal fall in the prices of agricultural products and deserve all possible help from the Government, but I strongly feel that it is neither just nor equitable to help them at the expense of others who are also effected by the present economic depression though not to the same extent.

5. I am unable to agree to the proposed ban against the institution of suits for the mortgage amount. Having reduced the rate of interest by compulsory legislation there is no justification to ask the mortgagee to wait for his mortgage amount till conditions improve. He may be able to find better investment for his money. He may like to invest the amount in profitable concerns. Under such circumstances it will be a great injustice to him if his hands are tied in the manner proposed in the majority report. I admit that in the present state of affairs some of the debtors may find it extremely difficult to pay the whole mortgage debt in a lump. To afford relief to them the court may be given discretion to pass instalment decrees in proper cases, the total period covered by the instalments not exceeding four years.

6. I do not think it proper to compel the mortgagee to take possession of the mortgage property in any suit instituted by him for the recovery of the amount due to him.

7. As regards kuries, I am of opinion that the provisions contained in the existing Royal Proclamation are wide enough to enable kuri starters and

subscribers to temporarily suspend the kuri or to reduce the number of instalments in proper cases. If, as proposed by the majority of members, the number of instalments is halved it will take twice the present period for the kuri to run its course. This is a pretty long period. The consequences of thus extending the duration of the kuri may be disastrous. The position and circumstances of the kuri starters and the prize winners may be so altered during the course of this long period so as to make it very difficult, if not impossible, for the non-winners to realise the amounts due to them. The difficulty to pay the instalment regularly on account of the present economic depression is common to the kuri starters, the prize winners and non-winners. There will not be any appreciable difference in the amount to be subscribed for each instalment by the prize winners and non-winners except perhaps in some of the auction kuries. If any modification in the terms of the existing Proclamation is found absolutely necessary, discretion may be given to the majority of subscribers including the kuri starter to temporarily suspend the kuri or to reduce the number of instalments. In my opinion no other change is called for in regard to this matter.

8. I approve of the other recommendations contained in the majority report.

J. KANDAR MENON,

25th June 1934.

Member, E. D. R. M. E. Committee.

SUPPLEMENTARY NOTE BY Mr. M. A. CHAKKO.

Member, Economic Depression Relief Measures Enquiry
Committee.

I regret I find myself unable to agree with the proposals contained in the Report which are calculated to make the agriculturists creditors bear the burden of the agriculturists debtors. I feel myself therefore bound to give my reasons in a separate Note.

2. I am in full agreement with the view taken in para 4 of the Report thus: "In fact the bulk of the existing debt appear to have been contracted during times of plenty when paddy and cocoanut were fetching fabulous prices in the market..... It may be interesting to know the main causes that led to the accumulation of debts in the past. Foremost among these causes stands the insatiable thirst many of our people had at one time for landed property. And the temptation to purchase land was quite natural when produce from lands was selling at fabulous prices. Very often lands with encumbrances were purchased by paying small amount in ready cash in the hope that with the income of the property supplemented by some windfall in the shape of winning a kuri ticket the encumbrances could be discharged."

3. When in times of plenty everybody had a surplus to save and put by, the problem was how to invest it to the best advantage. Three ways are well known and clear cut to our people.

(i) To invest it in profit-earning Industrial and Commercial concerns, conducted individually or by joint stock companies.

(ii) To invest it in the purchase and improvement of land with a view to become a well-to-do land owner in due time.

(iii) To invest it in loans secured or unsecured in landed properties.

4. All our agriculturists come under one or the other of the three categories in the matter of investment of surplus in times of plenty. It has also to be borne in mind that the shape of the investment varies according as it is the object to strive and acquire more wealth or it is to put by something in store for the rainy day. Now in every kind of investment there is the factor of risk. The venturesome man lured on by the vision of profit ahead, is disposed to take risks, the amount of risk being commensurate with the volume of profit expected. The timid man, who will take no chances, as well as the man whose sole object is to put by his savings for the lean years, is, on the other hand, satisfied with the steady moderate interest that his money will legitimately fetch. When he finds a party who would take his money and pay him interest, he readily closes with him and enters into a transaction by which he becomes the creditor and the other man the debtor. The still more timid man seldom parts with money unless it be on sound landed security. It is a great blunder to have confused these investors of surplus with professional money lenders.

5. Between agriculturists the rate of interest for loans is as a rule determined by that prevailing in the locality at the time. The Committee's investigations have disclosed that it seldom exceeded 9 to 12 percent per annum according to the magnitude of the amount loaned or borrowed. It has been stated by some witnesses, I believe rightly too, that the rate of interest is quite independent of the price of commodities. The evidence collected from the different Registry offices also bear out this truth.

6. It is when money market is easy and credit not difficult that the thirst for landed property becomes acute, and the temptation for speculation in land overpowers the would-be agriculturist. It is then that he rushes forward to take up the encumbered property and look forward for the windfall. When the venturesome man speculates the timid creditor is only a looker on. Now the quite unexpected and unforeseen, namely the unprecedented fall in the price of agricultural produce has come and over-whelmed every body. Who can help? Who should help is the problem.

7. It has been seen that the agriculturists in Cochin State fall in one or the other of the three classes denoted above. No. 1 class who invested in Industrial and Commercial concerns have not all been successful. Several of them failed in their venture partially or totally; while a good many succeeded. But we are not concerned with them at all.

8. Classes (ii) and (iii) are our immediate concern. It is No. ii class that are hit hardest by the present fall in prices. There is no doubt that they

stand in need of relief, and that unless urgent measures are taken many of them will be utterly ruined. The problem is to find a means of giving the much needed relief. What are the measures to be adopted? The report, I am afraid, tries to cut the gordian knot by asking the No. iii class to forgo part of the interest due to them and to put off demanding repayment of the loan itself. Obviously it is being unjustly hard upon the No. iii class to ask any of them to bear the burden of his brother in addition to his own.

9. In team work members have to bear each other's burden. But there is no team here as in an army fighting, where a soldier may have the duty to carry a wounded comrade. Here it is a shipwreck, where a passenger who can swim, cannot be legitimately required to carry another who cannot swim. Therefore attempt is made in the Report to search for and find reasons for the position that the one should forgo his dues to bring relief to the other. These reasons marshalled in the Report are to my mind lame and most unconvincing:

10. The reasons propounded are briefly these:

- (a) If No. ii class is not helped, all arable land in Cochin State will go into the hands of a few individuals which culmination will in its turn lead to serfdom, unrest and revolution.
- (b) In some instances (fortunately very rare and not in transactions between agriculturists themselves) interests are charged at the usurious rates of 18 to 36 per cent per annum.
- (c) In Bavanagar and in the United Provinces the Governments have interfered by means of legislation to save the agriculturists from the clutches of the money-lenders.
- (d) Money has more purchasing power now of articles of house-hold consumption than when the loan was advanced and the interest was agreed upon and fixed. Therefore the creditor who loaned his surplus need spend only less money to buy paddy, rice and cocoanuts now. Seeing that his expenses have come down to one-half or one-third it will not be unfair to require him to be satisfied with a less rate of interest.

11. Reasons (a), (b) and (c) above detailed do not concern the agriculturist creditor; if the lands change hands from one agriculturist to another it cannot affect the common wealth. The first three reasons apply to the monied class of money-lenders who as they are liable to be assessed to income-tax do not come within the definition of agriculturists adopted in the Report. Reason (d) alone has therefore to be considered here. It cannot be denied that agriculturists as a class are hard hit. The fall in prices has affected the creditor as much as the debtor among the agriculturists. Both sell their produce in the same market and fetch the same price. The agriculturists need for money is mainly to procure what his lands do not produce. He has to meet expenditure like school and College fees, Doctor's fees, cost of medicines, vakils' fees, court fees, etc., and several other demands on his purse about which there has been no fall in the rates at all. At present No. iii class man finds it difficult to make both ends meet. His condition is precarious. There are many of his class sunk right up to the chin in the slough of despond, and in devising a measure to furnish a foothold to those who are head over ears in debt, one has to be careful not to pump in another inch of slime over him for it is sure to swamp him outright.

12. If, however, any agriculturist of No. iii class has been lending money at an exorbitant rate of interest the Usurious Loans Bill, now before the Legislative Council, is ample to furnish the remedy as well as the relief. I, therefore, feel strongly that the Proclamation or Legislation should have no application to the debts one agriculturist has contracted from another. It should affect only debts contracted by agriculturists from non-agriculturists.

13. I am in perfect agreement with the rest of the Report and I think that the strong hand of Government should be stretched to bring relief by grant of loans more freely and more speedily. When debtors enabled by Government loans repay their creditors, money will be put in circulation and the steady flow of money will alleviate the wide spread distress.

14. Before closing I may set forth what I think is the best and surest way to relieve the present distress. The prime cause of the trouble can be traced to the fact that the stream of money that flowed into the country as value

of agricultural produce exported out of the country has dwindled by more than one half. The agriculturists' income in money has, therefore, proportionately diminished. He does not get ready cash enough to meet the unavoidable demands on his purse. There are commitments which he cannot go back upon. He, therefore, wants temporary accommodation and would borrow. When few have surplus to lend and many are about to borrow accommodation by way of loans has become difficult. The remedy therefore lies in pooling the resources and giving help in the shape of loan. The Government has to do it, seeing that they alone can supply the funds required.

15. The country which is parched for want of money must be freshened by the infusion of money into it. Rate of interest is not the problem. The Government can charge even 6 per cent. That will save a good many.

16. In lean years people live on expectation of future. Let those who have credit borrow. It is the firm hope of every body that the lean years are short and better times are in store; and this faith heartens and sustains the people to strive to tide over the present crisis. The public feeling is that the Government should take a bold step like the Pharaoh of old to save the people from ruin. The Government should make use of their credit to raise a big loan in order to distribute small loans widely, on adequate security. In so doing they will be replenishing temporarily the stream of fluid money. The debtors who have credit can then borrow from the Government to repay the creditors. The creditors who get back their money will in their turn release it in investment of loans. When money market is flushed distress will disappear. Be it understood that the whole framework stands on the hope that the fall in prices has come not to stay. The report is unanimous on this point. Too much emphasis cannot be laid on it seeing that decision has to be taken most urgently in order to save the people, agriculturists inclusive.

Trichur,
20th June 1934.

(Sd.)
M. A. CHAKKO.

SEPARATE NOTE BY Mr. T. S. NARAYANA AYYAR.

I regret I am unable to agree unconditionally with the recommendations contained in the main report.

2. The present condition of agricultural indebtedness in the State is indicated in paragraph 4 of the main report. "It is worthy of note that the heavy debt under the weight of which our agricultural population is now groaning is not the creation of the period of depression, but the accumulated heritage of previous years". I wish to state at the outset that any consideration of relief to the agriculturists based on the fall in prices cannot be entirely dissociated from the general problem of relief of agricultural indebtedness. For, though the problem of agricultural indebtedness may be regarded from two aspects—as a general problem and as a particular problem created by the recent fall in prices—these two aspects are not in essence different, as the fall in prices has only aggravated or brought to a head conditions which were already serious.

3. It is conceded in the main report that reduction of interest by itself will not bring any appreciable relief to the agriculturists. "We admit that reduction of interest will be only a mere palliative. We also agree that unless supplemented by other measures of a substantial character mere reduction of interest rates may not bring any appreciable relief to agriculturists" (Paragraph 8.) "We have already stated our conviction that reduction in interest rates by itself will not afford appreciable relief to the ryots unless supplemented by measures of a more substantial nature" (Paragraph 15). The supplementary measures proposed are detailed in paragraphs 15 and 16 of the report. I would go further and say that without more substantial relief measures by Government, the proposed legislation, by itself, will not only do little to benefit the classes concerned, but will, in all likelihood, do more harm than good and may even aggravate conditions thereafter.

4. The main points to be examined in connection with the proposed legislation are—

- (1) its effect on the position of creditors and especially agriculturist creditors ;
- (2) the possibility of evasion of the law by the creditor and its consequent in-utility to the debtor;
- (3) its tendency to restrict the credit of agriculturists for the future.

5. In my opinion, legislation to reduce interest should not be thought of until we have sufficiently ascertained the position of the creditors and the extent to which they would be affected by the proposed legislation. I do not agree with the statement in the report that the number of creditors who would be affected by the reduction in interest would be very small. There is no warrant for it except the evidence of some witnesses who are themselves debtors and it will be unsafe to accept their statement as a basis on which we can come to any safe conclusion in this matter. Enquiry has not proceeded in this direction. The Committee had not before it any reliable data to enable it to assess the extent to which creditors might be affected. A large percentage of the creditors will themselves be agriculturists, who have been equally affected by the slump in prices. There may be creditors who are not 'money-lenders', but depend upon the income from their small investments for meeting their daily expenses and other recurring fixed charges. Commitments made on the basis of an anticipated return from these investments will be upset and it will become impossible for such people to meet their obligations without recourse to borrowing. The position of a creditor who is himself indebted and who has to pay a higher rate of interest on his debts will be worse: for unless he is himself an agriculturist, he cannot have the benefit of the proposed legislation. The result will be that, without any appreciable benefit to the debtors themselves, the proposed legislation will give rise to a new class of debtors which will swell the ranks of the old and the position will become worse than it is to-day.

6. The honest creditor whose dealings have been generally fair will suffer, but the dishonest creditor will escape the provisions of the law by resort to fraudulent devices. No legislation can prevent the agriculturist from borrowing in the future and few agriculturists will be able to keep themselves above the necessity to borrow. The result is that the agriculturist debtor will be subjected to more onerous terms in respect of future transactions. The needy agriculturist can easily be forced to sign a separate document for the interest

lost on existing loans as a necessary condition of a fresh loan or in consideration of forbearance to sue. The new document will be treated as a fresh or independent loan and various devices adopted to destroy the evidence of continuity of the old transaction. The practice will also grow up of documents being taken for sums greatly in excess of what is advanced on future loans. So long as there is improvident borrowing and speculative money-lending, the provisions of the law will be easily circumvented and instead of relieving the burden on the agriculturist it will only tend to increase the burden on him. As the Baroda Banking Enquiry Committee (1930) observed:—"Such restrictive legislation has always added to the burden of the weaker party, for the money-lender would eventually impose stricter terms. We have therefore no faith in restrictive legislation. Any such step would make the farmer's business more difficult and costly. The fact is that the money-lending is a necessary evil and has to be tolerated. The real remedy is to create a system of agricultural banking in honest competition against him".

7. One of the inevitable effects of restriction of rates of interest by legislation will be the curtailment of future credit. In a paper on "the Problem of Rural Indebtedness" read before the last session of the Indian Economic Conference, Professor Thomas, University Professor of Economics, Madras, says:—"The fundamental weakness of all such measures is that they curtail credit. All legislation to regulate money-lending and rates of interest must take this into account. In fact such legislation has generally failed and is bound to fail". I do not concur in the view expressed in the main report that it is only the restriction of interest on future transactions that will lead to curtailment of credit and that there is no reason for any such misapprehension here as the proposed legislation is intended only to affect existing debts. The reduction of interest on existing debts must inevitably create general loss of confidence and a feeling of insecurity regarding future money transactions also. No creditor who lent or invested his money before the depression could have anticipated the likelihood of such legislation as is now proposed and if any such legislation is now passed it must naturally raise misgivings in their minds of the possibility of similar legislation in the case of future transactions also.

8. In this connection, I wish to draw attention to the very weighty pronouncement of the Governor of the United Provinces in remitting the United Provinces Agriculturists' Relief Bill for reconsideration by the Council. In his address to the United Provinces Legislative Council on the 9th April 1934 Sir Malcolm Hailey said:—

"Further, we must see here that our ideas are not unduly swayed by the strength of our feeling for those whose interests are mainly affected by this question. I spent the most important years of my official life in circumstances which gave me a very strong attachment to those who live on the land, and I feel their difficulties almost as deeply as I should feel my own. I am addressing a Legislature which has among its members a large representation of the community on which accumulated debt presses most hardly. But for the moment, we must all of us treat this question as impersonally as possible; we can none of us hope for complete detachment; but our attempt must be to approach it with what detachment we can, mainly as a problem in the economics of credit".

"It is a case which as demanded the gravest thought, for if in attempting to relieve the indebtedness of one class we undercut the general operation of credit, we may cause mischief the full extent of which we can none of us foresee. I know fully and feel deeply the biting harassment which the recent fall in incomes from land and in the capital value of land has caused to Agricultural debtors. I sympathise sincerely with any effort to reduce their anxiety, and I would go far to prevent disappointment to those who have looked to us for assistance. But there are factors which will be answering in their operation, and will not be deflected by the strength of our own inclinations. We may cut down debt by legislation, but if we are too sweeping in the scope and show insufficient discrimination in the manner of our action we cannot by legislation restore the movement of capital; yet it is clear that agriculture will be as dependent on the flow of capital in the future as it has been in the past. Again, this is legislation affecting property, for secured debts at all events must be ranked as property; and if legislation unduly considers the interests of one class of property holders, the immediate gain promised to them

may prove to be short-lived, and they may find that they have sown precedents for legislation regarding property rights from which they may have to reap an unwelcome harvest hereafter. Let me add a personal word, since it is in my personal capacity that I have to ask you to reconsider certain parts of the Relief Bill. It would be easy to obey a first inclination, and to seek good-will for myself, by refraining from asking you to reconsider these clauses of the Bill. That good-will would be a very pleasant memory to me. But it is not I, but those who need and those who supply agricultural capital, who will have to face the consequences which I honestly believe that these clauses may involve."

9. Apart from the above observations on the general aspects of the proposed legislation, I would like to state my own views on some of the specific recommendations contained in the main report.

10. I am of opinion that any emergent legislation that may be proposed should affect only debts contracted before the depression began, that is, before the 1st Chingam 1107.

Scope of legislation. (Para 1 of the main report.)

(a) This, I think, is clear from the Diwan's Proceedings containing the terms of reference. The Proceedings state:—"On account of the prevailing economic depression the agriculturists in the State find it difficult to pay interest on debts incurred by them *before the depression began*. Owing to the precipitous fall of agricultural prices, debts incurred by agriculturists *five or more years ago* on the security of their lands have now been increased by anything up to 300 per cent in term of agricultural commodities and the rate of interest has, as a necessary consequence, been similarly raised. In these circumstances it seems to Government desirable to consider if any relief can be granted to agriculturists by temporary legislation to restrict retrospectively the interest on *existing loans*". The term "existing loans" has, in my opinion, to be taken as relating only to the debts referred to above.

(b) As I understand it, the policy underlying the proposed legislation is one which is felt to arise out of the particular problem recently created by the depression in the prices of agricultural produce. The satisfaction of contracts entered into at the previous range of prices is in some cases found to be impossible, and the question for enquiry is whether in the circumstances that have arisen it is or it is not desirable, in the interests of this class of debtors, to modify such contracts in some proportion to the degree to which it has become impossible to implement them. If this is the basis of the proposed legislation, it is obvious that it cannot have reference to debts other than those contracted before the depression began.

(c) The term "existing debts" is interpreted in the main report (see paragraph 1) to mean "debts subsisting on the date on which the Regulation or Proclamation as the case may be, is passed or issued". Debts, which are contracted after the date on which the proposed legislation might come into effect are treated to be outside the pale of such legislation. If future loans, though contracted during the continuance of the depression are not intended to be affected, there would be no principle in including debts contracted similarly during the period of depression but before the date of the proposed legislation.

11. The definition of "Agriculturist" adopted in the main report is, in my opinion, open to the objection that, as it stands, it may well include persons whose income from agriculture is inconsiderable or disproportionately small compared with their income from other sources. The intention being, as I presume it is, to confer the benefit of the legislation on *genuine* agriculturists, the term should, in my opinion, be restricted to those whose *main or principal source of income is from agriculture*. Undue advantage may otherwise be taken by a class of persons who are agriculturists only in name to obtain relief under the proposed legislation in respect of liabilities incurred in pursuits other than agriculture. Traders and merchants may pass off as agriculturists and profit by the provisions of a legislation not intended for their benefit.

12. I do not agree with the recommendations in paragraphs 13 and 14 of the main report regarding the right of suit of mortgagee creditors. I must enter an emphatic protest against any interference with the existing right of suit. The right of suing for the principal should not be restricted in any manner or in any case.

Right of suit. (Paras 13 and 14 of the report.)

13. The fundamental principle of all expropriatory legislation is "No expropriation without compensation". In all expropriatory legislation which might be necessitated by force of exceptional circumstances, due care is taken to see that it is accompanied by suitable provisions for compensation to the parties affected. The creditor cannot justly be compelled to make some sacrifice unless he is compensated either (a) by immediate satisfaction of the adjusted debt, or (b) where this is not possible, by providing at least increased facilities for recovering the adjusted debt.

The difficulty in legislation of this kind is to reconcile the fundamental difference in view point between those who have borrowed money and cannot repay it and those who have lent the money and are naturally disturbed at the prospect of not being able to recover it. This is sought to be achieved by securing to the creditor who is called upon to make some sacrifice by force of circumstances, increased facilities for recovering the balance of the debt. This, I find, is the principle which is sought to be applied in attempts at legislation of this kind. In his address to the United Provinces Legislative Council, Sir Malcolm Hailey pointed out that any remedy "*which does not provide to the creditor any increased facility for securing repayment in return for the loss of potential assets*", was not an appropriate measure. "It would create a general loss of confidence which would re-act gravely on credit not only as applied to agricultural, but other transactions, thus rendering it difficult to secure future credit even for necessary or productive purposes". Referring particularly to attempts at readjustment of contracts on account of depression he again emphasised the principle that "*action must be directed to giving to the creditor facilities for recovering the adjusted debt*".

14. (a) It is agreed that the right to sue for interest alone is a concession to which the creditor is justly entitled as a partial compensation for the loss he suffers. To restrict, on the other hand, the right of suit for the principal in the manner proposed will be imposing an undeserved penalty on the creditor, for which there is no justification on principle or on economic grounds. It will be a strange perversion of the law of procedure if instead of securing to the creditor "increased facilities for securing repayment in return for the loss of potential assets", his existing right of suit itself is either taken away or sought to be restricted in any manner. This is a feature of legislation which has no parallel elsewhere in India so far as I am aware. It will practically be declaring a semimoratorium. Interference with the right of suit must cause serious prejudice to the creditor, if the security for the loan deteriorates, or the circumstances of the debtor become worse. The personal remedy, in cases where the debtor has other assets, may be impaired, if not altogether barred. Moreover, restriction of the right to sue for the principal may have an undesirable effect on the debtor himself. If the right to sue for the principal is postponed, the rate of interest in future transactions of the debtor is bound to be very high.

(b) I do not agree with the recommendation regarding the amount of arrears of interest in respect of which suits are allowed. The creditor should be given the liberty to sue for the whole of the arrears of interest if a certain percentage, at least, of the arrears is not paid within a prescribed time after demand made by the creditor and the balance in fixed instalments.

(c) I am equally against the proposal that in suits for interest or arrears of interest the Court should have the discretion to compel the creditor to take possession of the mortgaged property. The right to apply for possession for realization of the interest having been left to the option of the creditor, it appears inconsistent to compel him to take possession when he does not choose to exercise that option and sues for sale. If, in a suit for sale, the creditor declines to take possession at the instance of the Court, is he to be left without any remedy? To compel the creditor to take possession may be disadvantageous both to the creditor and the debtor. The management by the creditor may be inefficient—oftentimes, he will feel the property a millstone round his neck. The question of taking possession is beset with other complications also. The properties may not really be sufficient to pay the interest. If they are more than sufficient, questions of apportionment will bring in other difficulties. The complications will increase if there are more than one secured creditor.

15. Lastly, I am definitely opposed to the recommendation made in paragraph 23 of the main report "to issue a Royal Proclamation prohibiting the institution of suits and staying of proceedings in suits already instituted till the Government pass final orders on

the report or until further orders". I do not think that such a step is either necessary or desirable. As observed in the Diwan's Proceedings, the problems raised by the proposed legislation are very complex and the methods in which the problem of agrarian legislation is being handled by Governments elsewhere indicate the extreme care and caution with which the question should be approached. Referring particularly to the condition created by the fall in prices, Sir George Schuster observed in his speech at the last session of the Legislative Assembly :—" The problem of indebtedness is one of immense difficulty and has many reactions and I may say that our present view is that a solution is not likely to be found by any heroic attempts. . . . It needs sympathetic but *cautious handling* ".

16. I agree with the proposal in paragraph 19 of the main report regarding suits by starters against defaulters. I agree with the whole of the recommendations on this point.

17. I am not, however, in favour of the recommendation in para 17 of the report for compulsory extension of the interval between the instalments of a Kuri. Such a proposal has obvious disadvantages which will far outweigh the immediate relief that is sought to be achieved thereby and I think it is likely to be fraught with greater risks in the long run. A prolongation of the period may bring about an alteration in the circumstances of the parties which may be productive of greater harm. The ordinary period of a Kuri, even as it is, is sufficiently long and already the conduct of a Kuri to its natural termination is increasingly felt to be an onerous liability owing to the varying fortunes of the parties—both starter and subscriber. An extension of the period will only increase the burden. The securities, if any, furnished by the starter and the prized subscribers for the due fulfilment of their obligations may with longer lapse of time deteriorate or be otherwise affected. The chances of defaults must be greater in cases where the starter and subscriber (prized) have not furnished any security. The extension of the interval must postpone the chances of a subscriber winning or bidding his ticket. Many of the subscribers may be depending upon the chance of winning their ticket or being able to bid their ticket at the usual instalment to meet their other pressing demands. Under the circumstances, I am decidedly of opinion that it would be quite sufficient if option is given to the subscribers and the starters to decide by a majority as to the expediency of extending the interval. The subscribers must be the best judges, having regard to their financial position *inter se*, of the necessity or desirability in each case of such a course. The existing Proclamation already provides for this (Clause 1) and I do not think any further change is desirable in this direction. I may also note that the evidence of some witnesses whose opinion is entitled to weight is also to the same effect.

18. Some of the witnesses proposed the winding up of all Kuries as an immediate measure of relief. For obvious reasons, this is not a practical proposition. Where a Kuri is being conducted properly, it would be to the advantage of all concerned to allow it to run its natural course. But where the conduct of the starter is such that the subscribers have lost faith in him and they feel that to allow him to continue the Kuri would not be in the best interests of the non-winners, I am strongly of opinion that it should be open to a majority among the non-winners to compel the starter either (a) to furnish security, where he has not already done so, for the due performance of his obligations or (b) if he fails to do so, to wind up the Kuri altogether. The provisions of the Kuri Regulation of 1107 requiring the starter to furnish security do not apply to Kuris started before the commencement of the Regulation and instances are numerous where the subscribers feel themselves absolutely helpless against the arbitrary conduct of the starters in dealing with Kuri funds. It is doubtful whether under the existing Law in Cochin the subscribers have the power to compel the starter to wind up the Kuri or to insist on other safeguards. I may refer to a recent decision of the Chief Court of Cochin in A. S. No. 117 of 1108, reported in I Cochin Law Journal, page 13 :—

" A Kuri starter secured properties worth about Rs. 4,000 for the proper conduct of the Kuri. The properties have gone down in value, and the properties secured are estimated only at about Rs. 2,000. The starter has not paid and never pays the prize-winners while he regularly collects subscriptions. The

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subscribers brought a suit for a permanent injunction restraining the Kuri starter from continuing the Kuri in that fashion and for the appointment of a Receiver to do the work of the Kuri starter.

Held, by the Full Bench (Chief Judge dissenting) that the suit is not maintainable.....No Receiver can be appointed by way of specific relief for the future conduct of a Kuri".

Instances like this are becoming very common and I think this is a matter which calls for urgent legislative interference for protecting the rights of subscribers.

(Sd.) T. S. NARAYANA AYYAR,
14th July 1934.



REPORT

Recd
Nov 29/1935

ON

AGRICULTURAL INDEBTEDNESS

BY

MR. W. R. S. SATHYANATHAN, I.C.S.



MADRAS

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From

W. B. S. SATHIANADHAN, Esq., I.C.S.,

Special Officer for enquiry into Agricultural Indebtedness,
Board of Revenue (Land Revenue and Settlement), Madras.

To

THE SECRETARY TO GOVERNMENT,

LAW (GENERAL) DEPARTMENT

[Through the Secretary, Board of Revenue (Land Revenue and Settlement).]

Dated Fort St. George, the 31st July 1935.

SIR,

Under G.O. No. 3295, Law (General), dated 20th November 1934, I have the honour to submit my report on the indebtedness of agriculturists in the Presidency of Madras.

PART I.

AGRICULTURAL DEBT—ITS CAUSES AND EFFECTS.

CHAPTER I—INTRODUCTORY.

2. *Terms of reference and scope of enquiry.*—A period of six months was allowed me for this investigation. I was asked to tour throughout the Presidency. My staff consisted of one clerk and one stenographer. The immense amount of written evidence to be examined, of literature to be studied and of statistics and oral evidence to be collected necessitated more time than was left at my disposal. I therefore had to apply for an extension of 29 days which was granted in G.O. Ms. No. 1997, Law (General), dated 12th June 1935. I took charge on the 3rd January 1935 and submitted my report on the 31st July 1935.

In G.O. No. 3295, Law (General), it is stated that M.R.Ry. Diwan Bahadur T. A. Ramalingam Chettiyar Avargal, M.L.C., introduced in the Madras Legislative Council a Debt Conciliation Bill. It was in connexion with this Bill that I was asked to investigate the problem of rural indebtedness. My terms of reference were as follows:—

- (1) To what extent indebtedness prevails among agriculturists;
- (2) how the present depression in value of land and the fall in prices have affected the position of the agriculturists;
- (3) how far compulsory recovery of debts through courts has affected the position of agriculturists who have incurred debts;

(4) what facilities are now afforded by land mortgage banks and co-operative societies to agriculturists;

(5) whether conciliation in the matter of discharge of debts is now being resorted to and, if so, to what extent;

(6) to what extent property has been mortgaged by agriculturists as security for debts and how much land has changed hands during the last four years; and how much thereof went to non-cultivating classes;

(7) whether legislation on the lines of the Debt Conciliation Bill for the establishment of conciliation boards is really necessary for the relief of agriculturists and whether there is any demand for such legislation by them; and, if so, whether the scope of legislation should be limited only to debts on land or should include all debts of agriculturists;

(8) whether such legislation is likely to curtail the facilities that now exist for borrowing; and

(9) whether in case legislation is considered unnecessary, there is any other possibility of affording relief to agriculturist debtors.

The Government in this Government Order further states as follows: "At the same time, they (the Government) realize that the problem of agricultural indebtedness is one that calls for a remedy and are prepared to devise or support practical measures which are calculated to solve it satisfactorily." The nature of my work therefore seems clear. The problem of rural indebtedness has of late forced itself much into public notice, chiefly because of the acute economic depression which swept over the world five or six years ago and still continues. In almost all countries, there are attempts being made

Under the zamindari tenure, the zamindar holds his estate under a *sannad* by paying to the Government a fixed sum known as *peshkash*. The relations between the zamindar

and his ryots are regulated by the provisions of the Estates Land Act. The following statement exhibits particulars relating to zamindari tenure:—

STATEMENT NO. 3.—Showing the approximate area and revenue of the Zamindaris in the Presidency of Madras for fasli 1343 (1933-34).

Districts.	Name of zamindaris.	As per census of 1881.			Estimated revenue the Zamindaris in fasli 1343.	Peshkaah payable to Government in fasli 1343.
		Cultivated and cultivable area.	Uncultivated area.	Total.		
		(3)	(4)	(5)		
		ACS.	ACS.	ACS.	RS.	RS.
Ganjam ..	Parlagimedi ..	227,200	40,800	268,000	4,98,400	79,787
Vizagapatam ..	Vizianagram ..	384,000	81,280	465,280	20,88,890	4,94,816
	Bobbili ..	65,280	12,160	77,440	626,895	83,453
	Jeypore ..	..	..	5,976,680	11,44,832	15,988
East Godavari ..	Pithapuram ..	157,120	49,280	206,400	9,43,023	2,62,782
Kistna ..	Devarakota ..	89,600	28,160	117,760	2,51,230	79,495
Nellore ..	Venkatagiri ..	769,960	401,280	1,171,340	11,62,240	3,68,734
Chittoor ..	Karvetnagar ..	218,880	222,720	441,600	3,98,598	1,73,842
	Kalahasti ..	368,000	411,520	779,520	4,32,717	1,72,982
	Sivaganga ..	232,960	137,600	370,560	14,83,011	2,53,451
Ramnad ..	Ramnad ..	586,880	168,720	745,600	10,47,800	2,92,627
Tinnevely ..	Ettaiyapuram ..	..	..	337,750	2,96,258	77,985
	All other estates ..	..	..	8,138,080	1,34,54,443	26,35,590
	Total ..	3,099,880	1,543,520	19,094,901	2,38,28,787	49,91,532

[Extract from the Report on the Settlement of Land Revenue of the Districts in the Madras Presidency for fasli 1343 (1933-34).]

There are inam holdings of various kinds, the main feature of which is that the land is held on a reduced or nominal assessment, subject to certain conditions.

There are tenants under all these three systems. Some are long-term tenants with occupancy rights, holding land under registered documents for long periods extending to ten and twelve years. There are the occupancy ryots paying rent to zamindars. There are again tenants-at-will holding under simple leases oral or documentary for a year generally. The lease amounts are paid to the registered ryotwari or inam holders or to zamindars, either in money or in kind. The main forms of tenancy are the sharing system in kind and the fixed lease system in money or in kind.

The tenures in Malabar and South Kanara are different to those in the rest of the presidency. In Malabar, the *janmi* holds the land of Government on payment of assessment. Under him, the *kanamdar* holds on a twelve years' lease and he has a right to renew on payment of a fee. When he leaves, he is entitled to compensation from the *janmi* for all improvements he has effected. The *janmi* and *kanamdar* also lease their lands to tenants on short term leases. The *kanamdar* has almost similar rights to the zamindari occupancy tenant.

In South Kanara, the holding is held under the *muli* tenure. The *mulawargadar* holds land under Government subject to payment of assessment. He has special claims to adjacent waste lands known as the *kumaki right*. The two main classes of tenants are *mulgenidars* with occupancy rights and tenants-at-will or *chalgenidars*

9. *The people.*—One of my terms of reference is to what extent property has changed hands during the last four years and how much thereof has gone to non-cultivating classes. As far as I can make out, there is no such thing in this presidency as a "cultivating class," as distinct from a "non-cultivating class." Landholders and tenants belong to all castes and communities from Brahmans to the depressed classes and actual cultivators as well as absentee landlords are found in all of them. There are cultivating landlords and tenants among all communities and castes, who personally supervise the work on their lands and even do much, if not all, of the work themselves. It is encouraging indeed to find many Brahmans throwing off the shackles of pride and prejudice and doing all the items of agricultural operations themselves with the exception of ploughing. Others who are generally affected by caste prejudices and believe in the false dignity of "sitting at ease," will do well to follow this magnificent lead. Absentee landlordism is steadily on the increase. It is especially increasing among those who lend money to agriculturists, whether professional money-lenders or agriculturist and trader money-lenders. Land was a safe investment till a few years ago, though the return it yielded was meagre. So those, whose professions gave them a surplus for investment, invested in land. Hence, we have absentee landlords among Government servants, lawyers, and retired men. Professional money-lenders, and traders and agriculturists who lend money are gradually turning out to be big absentee landlords. When their loans are not returned, they eventually take the land of their debtors in full or part payment. It being

impossible for them to cultivate this growing volume of landed property themselves, the land is let out on lease to tenants. This tendency of land to pass into the hands of those who will not or cannot cultivate in person has been much aggravated by the economic depression.

I do not think there is any official definition of an *agriculturist* in this province. There are very many who derive some income from their lands and who also earn from other sources. For the purpose of this report, however, he can, I think, be defined as one who derives his income mainly from the land. I presume it is not the intention of the Government to deal with zamindars and rajas, who hold land under zamindari tenure. They may or may not be indebted; but their indebtedness, if any, will probably be of such dimensions as not to come within the purview of any remedial measures that may be contemplated. It will be well, therefore, in this report, to limit our attention to ryotwari and inam landholders, to tenants and sub-tenants under them, to zamindari ryots and to farm labourers.

The total population of British territory in the Madras Presidency (excluding the States of Pudukottai, Banganapalle and Sandur) was 46.74 millions in 1931, as compared with 42.32 millions in 1921. There was therefore an increase in population of 4.42 millions during the decade 1921—1931. Applying the same rate of increase to the years subsequent to 1931, we arrive roughly at a total population in 1935 of 48.64 millions.

In 1921, 71 per cent of the total population was declared to be supported by agriculture and the same percentage was surmised in 1931. So according to the census reports, we may roughly calculate that 34.53 millions of people in the Madras Presidency in 1935 are supported by agriculture. It should be realized that such calculations cannot possibly be exact. When estimating in millions and crores, errors must creep in. Especially so is this tendency when figures are calculated for anything dealing with agriculture. As already indicated, an agriculturist is an elusive person. Let us suppose a person is a clerk and earns Rs. 35 a month. He may also derive an income of about Rs. 40 from his lands. When questioned by census enumerators, he will almost certainly give his occupation as "clerk." Variations on this theme can be endless. There has been a marked tendency in the last few years for a man, to try and deny any relation to agriculture, if he earns even a negligible income from some other regular source. In 1921, however, the tendency to embrace agriculture was paramount and as Mr. Yeatts says, "comment was made then (in 1921) that some of it (the great rise in the number of agriculturists) probably represented the habit of classing one's occupation as agriculture in preference to other specific but less honourable pursuits."

According to the census report, agricultural labourers increased from 4.62 millions in 1921 to 5.09 millions in 1931. The following table is taken from the latest census report and exhibits the chief contributories to 1,000 persons engaged in cultivation:—

Agricultural labourers ...	429
Cultivating owners ...	390
Cultivating tenants ...	120
Non-cultivating owners ...	34
Non-cultivating tenants ...	16

To quote from the census report, "the predominance of agricultural labourers is at once apparent and these with the working owners constitute over 80 per cent of the total persons engaged in agriculture. The proportions have varied considerably from 1921, but considerations already adduced will account for much of the variations. Circumstances of pride frequently enter in these returns of occupations. The low proportion of non-cultivating tenants shows to what extent sub-infeudation obtains in Madras and from another point of view indicates the extreme smallness of the average holding."

10. *Classification of land.*—All lands are divided into survey fields and then again into subdivisions. Cultivable lands are divided from the revenue point of view into *wet* and *dry*. Wet lands are those on which irrigated crops can normally be grown. In all districts, except Malabar and South Kanara, the Government generally supply water to wet fields by means of irrigation sources. In Malabar and South Kanara, as we have seen, the regular south-west monsoon affords a fairly regular water-supply. There are no "irrigation sources" in Malabar, South Kanara and the Nilgiris. Wet rates are very much higher than dry rates. Dry lands are generally on a higher level than wet lands and depend almost solely upon rainfall for water. If water from a recognized source of irrigation is supplied to dry lands, or for an additional crop to wet lands, an extra water rate is charged. In Malabar and South Kanara, we have an additional classification known as *garden*, in which the coconut, areca-nut, pepper-vine and the like are grown.

11. *Holdings.*—A revenue holding may consist of a single field or subdivision or, what is far more common, a conglomeration of fields and subdivisions in a single village. The average ryots' holding is generally of the latter type. Many ryots hold lands on ryotwari pattas in several villages. A single patta is given to a ryot who holds land singly, while joint pattas are given to ryots who hold lands jointly. The joint patta is a common feature of South India, an unfortunate but inevitable result of the provisions of Hindu and Muhammadan Laws. The names of these joint holders constantly change as time passes. Some of these pattadars die, others become majors, a few give up their shares to others and so on. But seldom is trouble taken to intimate such changes to the Revenue Department. Yet, it is the duty of the unfortunate karnam to keep the revenue registry up to date. No wonder then that

such a registry is not all that it should be in spite of the ceaseless efforts at rectification of the Revenue Department, helped as it is by the Land Records staff. All joint holders are

jointly and severally responsible for the payment of land revenue on their holdings.

The following statement exhibits the size of holdings in the Madras Presidency:—

STATEMENT No. 4.—Showing the size of holdings in Madras Presidency and the number of pattas of various values held.

(1)	Number of pattas.		Extent of holdings in acres.	
	Fasli 1335.	Fasli 1340.	Fasli 1335.	Fasli 1340.
	(2)	(3)	(4)	(5)
Pattas on which the payment is Re. 1 and less—				
Single pattas	615,262	702,706	364,658	415,652
Joint pattas	1,780,692	509,391	237,961	263,524
Total ..	2,395,954	1,212,097	602,619	679,176
Rs. 10 and less but over Re. 1—				
Single pattas	1,896,396	2,063,586	5,414,095	5,910,164
Joint pattas	3,382,964	1,105,726	3,584,034	7,004,451
Total ..	5,279,360	3,169,312	8,998,129	12,914,615
Rs. 50 and less but over Rs. 10—				
Single pattas	761,814	790,988	6,260,925	6,460,294
Joint pattas	447,991	444,695	4,303,014	4,978,495
Total ..	1,209,805	1,235,683	10,563,939	11,438,789
Rs. 100 and less but over Rs. 50—				
Single pattas	83,230	84,774	1,727,312	1,743,920
Joint pattas	39,339	32,285	898,557	848,590
Total ..	122,569	117,059	2,625,869	2,592,510
Rs. 250 and less but over Rs. 100—				
Single pattas	32,835	35,025	1,331,110	1,375,291
Joint pattas	13,480	11,944	631,487	555,084
Total ..	46,315	46,969	1,962,597	1,930,375
Rs. 500 and less but over Rs. 250—				
Single pattas	7,042	7,832	626,691	646,899
Joint pattas	2,402	1,928	216,850	202,841
Total ..	9,444	9,760	843,541	849,740
Rs. 1,000 and less but over Rs. 500—				
Single pattas	2,404	2,286	418,173	428,822
Joint pattas	588	529	107,697	122,248
Total ..	2,992	2,815	525,870	551,070
Over Rs. 1,000—				
Single pattas	862	921	459,750	521,062
Joint pattas	189	191	99,868	130,162
Total ..	1,051	1,112	559,618	651,224

[Extract from the Report of the Settlement of the Land Revenue of the Districts in the Madras Presidency.]

It will be seen that the bulk of the pattas are those which yield a land revenue of Rs. 50 and less, those which give Rs. 10 and less forming the vast majority.

Joint pattas are definitely on the decrease, a sign partly of the disintegration of the joint family and the growing urge for partition. What is alarming, however, is that, in spite of fresh assignments to small farmers and labouring classes, the small holder, who constitutes the bulk of the agricultural population of this presidency, is gradually making way for the large landholder, who, while absorbing the lands of the cultivating small farmer, seldom cultivates the land himself.

In the five years between faslis 1335 to 1340, registered holders paying between Rs. 250 and Rs. 500 have increased by 316, those paying between Rs. 500 and Rs. 1,000 have acquired nearly 25,000 acres more land and of those paying more than Rs. 1,000, there are 61 more. In this corresponding short period, the number of pattas paying Rs. 100 and less has fallen from 9,601,688 to

5,734,151 or by 3,267,537. Statement No. 3 above does not give a complete or accurate idea of the present position, because revenue registry is usually not up to date and also because the figures for years after fasli 1340 are not available for purposes of comparison.

12. *Irrigation.*—The great rivers, Godavari, Kistna and Cauvery supply water to the three main deltaic areas. The districts of East Godavari, West Godavari, Kistna, Guntur, Tanjore, Trichinopoly and South Arcot are benefited by channels from these irrigation sources. The Kurnool-Cuddapah canal irrigates small portions of the Cuddapah and Kurnool districts. There are small isolated deltaic areas in Tinnevely, Madura, Nellore, Ganjam and North Arcot districts. The Cauvery-Mettur project, which has recently been completed at a total cost of over seven crores, will open up for wet cultivation a vast dry area in the Tanjore district, besides supplying more water to the old Cauvery delta. The following statement shows the particulars regarding the areas irrigated in this presidency.

STATEMENT No. 5.—Area irrigated in each district from the various sources of irrigation (canals, tanks, etc.) (extract from season and crop reports).

District.	Area irrigated from						Total.	Percentage of irrigated area to net area sown.	Percentage of area irrigated by wells to the total area irrigated.	Percentage of irrigated area to net area sown in the previous year.	
	Government canals.	Private channels.	Tanks.	Wells having independent ayacuts.	Wells supplementing recognized sources of irrigation.	Other sources i.e., spring channels, etc.					
	(1)	(2)	(3)	(4)	(5)	(6)					(7)	(8)	(9)	(10)	(11)
	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.				
Ganjam	167,889	42,322	418,979		2,956	84,655	718,845	49	..	47	
Vizagapatam	54,898	68,455	365,018	67,885	88,473	162,860	718,111	28	9	26	
East Godavari	275,247	..	103,577	..	146	65,502	544,326	56	..	56	
West Godavari	426,133	..	73,549	9,949	..	11,776	518,457	64	..	83	
Kistna	471,508	408	66,795	2,907	..	12,286	553,904	51	1	51	
Guntur	384,569	..	21,979	13,987	288	4,258	374,793	18	4	18	
Kurnool	83,138	..	42,202	16,611	249	3,534	95,535	5	17	4	
Bellary	16,181	29	17,484	9,669	82	3,550	52,219	2	19	2	
Anantapur	40,465	914	98,697	35,919	23,774	3,661	179,656	9	20	8	
Cuddapah	50,774	558	54,949	76,151	15,589	27,054	209,481	20	36	19	
Nellore	139,814	420	233,501	103,385	8,827	17,688	494,828	36	21	84	
Chingelput	10,901	2	411,568	9,482	15,665	68,781	500,743	65	2	67	
South Arcot	160,580	..	261,431	22,003	55,488	22,164	466,150	37	5	37	
Chittoor	22,723	10,798	162,204	64,566	31,103	25,526	285,817	38	23	35	
North Arcot	21,550	1,435	245,434	74,559	40,306	16,029	359,008	30	21	36	
Salem	26,501	1,482	72,717	140,761	30,515	20,582	262,043	17	54	14	
Coimbatore	80,622	143	22,580	413,011	355	14,324	535,685	23	78	27	
Trichinopoly	129,393	..	65,152	90,468	27,138	10,719	295,732	22	81	20	
Tanjore	363,986	930	120,051	..	9,660	1,865	986,332	70	..	73	
Madura	147,331	8,144	148,910	116,644	5,808	6,230	427,259	35	28	35	
Ramnad	1,559	285	318,757	53,620	..	190	374,411	29	14	30	
Tinnevely	51,441	2,308	166,259	31,206	27,658	2,177	253,691	21	12	22	
Presidency—1933-34	3,627,216	189,184	3,491,793	1,354,269	379,085	589,737	9,202,321	27.2	14.7	27	
1923-24	* 3,474,261	* 178,350	3,189,125	..	1,782,068	426,618	9,000,422	28.0	..	..

NOTE.—There are no sources of irrigation on the West Coast and the hills. Excluding the West Coast and the hills 29.0 per cent was irrigated during the year 1933-34.

* Revised figures.

Irrigation under Government canals has substantially increased in the last ten years and will certainly expand much further when the Cauvery-Mettur project is supplying the full area it has been intended for. Irrigation under private channels has diminished, while

the total irrigated area under wells remains about the same.

13. *Crops.*—The appended statement furnishes particulars of crops raised in different parts of the presidency.

STATEMENT No. 6.—Extract from the season and crop report of the Madras Presidency, 1933-1934.

Name of districts.	Total area.	Forests.	Net area sown.	Area of paddy irrigated and unirrigated.	Area of cholam irrigated and unirrigated.	Area of cumbu irrigated and unirrigated.	Area of ragi irrigated and unirrigated.	Total cereals.	Total area of pulses sown.	Area of sugarcane.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.
Ganjam	5,864,818	588,754	1,454,626	1,057,714	17,327	11,272	146,065	1,274,356	280,902	6,757
Vizagapatam	10,999,209	1,100,694	2,598,897	1,112,808	71,702	207,471	501,846	2,133,753	258,800	34,531
East Godavari	3,980,698	907,811	980,290	633,288	98,870	44,704	18,967	819,538	179,787	9,221
West Godavari	1,511,021	48,864	814,982	675,600	60,902	12,267	5,308	759,407	76,768	1,565
Kistna	2,269,786	109,736	1,086,821	576,682	208,432	32,089	7,425	852,042	98,876	594
Guntur	3,683,824	469,312	2,126,148	395,718	435,617	168,509	14,888	1,463,775	110,223	1,133
Kurnool	4,859,190	1,647,270	2,100,650	70,958	522,392	58,776	25,083	1,301,478	133,552	248
Bellary	3,654,539	362,238	2,349,671	41,053	611,855	96,408	22,326	1,226,314	163,293	8,540
Anantapur	4,307,049	456,662	2,051,941	138,157	229,360	146,894	84,954	1,125,333	238,832	2,589
Cuddapah	3,724,695	1,152,250	1,041,720	100,021	283,244	115,054	68,505	751,413	46,690	299
Nellore	5,087,200	466,369	1,359,512	422,264	420,562	108,557	82,839	1,235,249	148,941	22
Chingleput	1,965,897	126,841	767,091	725,408	6,685	10,903	78,675	844,869	15,064	333
Madras	18,695	..	..	..	..	..	..	..	..	..
South Arcot	2,468,088	168,294	1,289,265	509,650	68,690	90,461	87,168	1,016,238	18,271	9,835
Chittoor	3,778,865	525,282	755,498	204,597	47,310	158,378	166,599	619,508	44,245	9,668
North Arcot	2,932,886	756,433	1,118,184	488,086	67,207	89,138	112,023	879,628	82,580	7,883
Salem	4,517,107	1,000,553	1,568,458	801,788	173,733	298,388	264,004	1,153,003	281,345	6,706
Coimbatore	4,527,288	1,438,703	1,922,081	122,042	451,438	326,768	178,194	1,188,583	325,906	8,675
Trichinopoly	2,825,870	144,920	1,353,769	886,871	227,188	271,417	67,018	1,116,200	79,573	5,311
Tanjore	2,366,893	12,692	1,295,838	1,118,291	11,917	7,302	17,835	1,208,518	68,240	920
Madurai	3,078,021	758,814	1,213,772	365,321	249,977	32,961	50,674	884,328	96,816	2,097
Ramanad	3,140,268	46,352	1,286,947	455,876	69,672	119,781	73,682	884,568	44,478	373
Tinnevely	2,788,699	221,517	1,215,496	367,504	77,237	162,963	27,825	726,398	142,603	279
Malabar	3,645,573	857,838	1,487,008	891,332	273	..	11,865	919,000	25,562	26
South Kanara	2,573,509	618,815	557,792	586,692	..	..	6,672	593,554	45,009	3,743
The Nilgiris	633,377	311,048	89,378	6,727	119	1	2,638	18,892	629	2
Total 1933-34	91,007,561	13,893,112	33,879,523	11,709,788	4,411,554	2,558,568	2,123,968	24,995,939	3,042,040	121,850
1928-1929.										
Totals for 1928-29 .. .. .	..	12,100,701	34,067,941	11,018,934	4,614,579	3,067,394	2,354,914	25,188,119	2,327,573	39,075
1923-1924.										
Totals for 1923-24 .. .. .	..	* 12,157,794	* 32,297,033	10,516,701	4,947,085	2,645,078	2,592,199	24,622,418	2,658,434	121,296

STATEMENT No. 6.—Extract from the season and crop report of the Madras Presidency, 1933-34—cont.

Names of districts.	Total fruits and vegetables including root crops.	Total food crops.	Coconut.	Tobacco.	Groundnut.	Gingelly.	Castor.	Total oil seeds.	Cotton total.
	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)
	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.
Ganjam	39,277	1,631,431	8,447	3,224	49,985	52,048	5,286	127,827	980
Vizagapatam	68,045	2,576,453	2,339	51,053	126,352	142,808	10,216	368,843	13,655
East Godavari	50,561	1,093,111	52,579	18,202	158	89,324	7,915	150,124	7,138
West Godavari	27,529	881,912	9,954	7,882	6,464	69,209	6,413	92,229	759
Kistna	15,555	986,275	1,207	6,091	109,324	7,776	8,703	127,072	17,601
Guntur	12,187	1,985,231	188	94,910	352,879	1,039	31,931	386,452	73,381
Kurnool	8,040	1,470,693	20	4,608	480,097	2,493	531,362	518,459	177,559
Bellary	6,426	1,420,489	1,704	970	416,641	11,588	15,860	464,713	569,279
Anantapur	8,897	1,456,914	484	1,406	446,507	29,064	69,300	558,968	107,136
Cuddapah	22,966	839,400	117	1,693	229,478	3,075	8,635	245,081	38,724
Nellore	9,539	1,412,516	283	2,720	16,595	8,522	47,588	68,226	34,724
Chingleput	18,500	885,478	5,806	19	88,956	17,290	12	62,896	8
Madras		1,080,694							
South Arcot	22,394	722,334	4,111	1,786	381,960	55,780	1,096	444,876	1,860
Chittoor	33,147	1,006,168	2,935	512	113,826	5,913	5,633	135,092	32
North Arcot	22,812	1,477,542	11,537	2,073	295,035	25,276	5,092	396,458	369
Balem	16,582	1,562,718	9,108	4,860	151,480	52,278	23,874	296,551	51,818
Coimbatore	16,402	1,262,635	10,528	29,575	200,049	36,253	9,934	257,532	361,675
Trichinopoly	24,806	1,322,248	6,510	4,312	95,968	73,578	8,128	185,609	45,545
Tanjore	27,875	1,038,646	32,344	1,450	65,061	23,119	477	128,805	91
Madura	32,772	988,101	7,188	7,690	129,310	27,059	4,565	163,366	145,768
Ramanad	9,908	962,048	6,340	2,068	58,854	27,255	1,132	93,744	222,274
Tinnevely	21,644	1,293,964	5,266	1,158	12,887	69,368	960	88,710	206,704
Malabar	195,262	683,592	885,351	42	1,596	8,422	305	346,570	189
South Kanara	23,570		47,216	1,647	8	2,581	227	50,101	180
The Nilgiris	13,458	38,781		21	5	27	6	122	8
Total for 1933-34 ..	748,399	29,764,423	561,555	247,326	3,779,365	836,145	304,668	5,648,311	2,155,942
1928-1929									
Total for 1928-29 ..	677,772	29,516,118	570,380	255,229	3,679,349	759,716	344,378	5,515,654	2,464,775
1923-1924									
Total for 1923-24 ..	657,674	28,951,822	520,552	* 219,842	1,811,790	695,758	339,029	3,584,591	2,581,521

* Revised figures.

This statement deserves close study. During the eleven years from 1923 to 1934, forests have increased by 535,000 acres. The net area sown, though it has risen from 1923 to 1928, has definitely decreased thereafter. The difference, however, is not substantial. Nor are variations in the areas under paddy, total food crops, tobacco and coconut, particularly significant or noticeable. As regards sugarcane, the area under it has dropped steeply from 1923 to 1929 and again has risen as steeply from 1929 to 1934. Areas under cholam, ragi and cumbu have noticeably fallen off in the last five years while pulses have increased. The most remarkable increase is seen between 1923 and 1929 in the area under ground-nut which shot up from 18.12 lakhs of acres to 36.79 lakhs and again rose in 1934 to 37.79 lakhs.

Agriculture in the Madras Presidency at present is predominantly a food-producing agency. Of the net area sown of 33.880 millions, as much as 29.754 millions or 88 per cent consists of food crops. Of the area sown with food crops, paddy (mostly irrigated) easily takes the first place with 11.704 millions of acres. Cholam, cumbu and ragi, which are predominantly dry crops, account between them for 9.09 millions of acres. It is as well to recognize clearly that the economic system of the South Indian farmer must necessarily concern itself mainly with food crops, and paddy in particular. Paddy cultivation will take on an added significance when the new area under the Cauvery-Mettur project is opened up.

The following statement shows the acres under rice in different parts of India and in other parts of the world:—

STATEMENT No. 7.—Statement of area and production of rice.

Name of provinces.	Area (1,000 acres)— Average for		Increase or decrease per cent.	Production (1,000 tons) — Average for		Increase or decrease per cent.	Average yield per acre in tons.	
	1922-26.	1927-30.		1922-26.	1927-30.		1922-26.	1927-30.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1 Bengal	20,793	20,604	- 1.0	7,968	8,615	+ 8	.36	.42
2 Bihar and Orissa	14,446	14,015	- 3.0	4,836	5,408	+ 12	.32	.39
3 Burma	11,996	12,691	+ 6.0	4,739	4,818	+ 2	.40	.38
4 Central Provinces and Berar	6,193	5,488	- 11.0	1,460	1,635	+ 12	.28	.29
5 Madras	10,968	11,285	+ 3.0	4,947	5,259	+ 6	.45	.47
6 United Provinces	7,178	6,902	- 4.0	2,168	1,709	- 21	.30	.25
7 Indo-China	12,084	13,848	+ 15	5,645	5,907	+ 4.6	.47	.43
8 Italy	415	246	- 41	599	651	+ 8.5	1.37	1.43
9 Japan	7,714	7,848	+ 2	10,257	11,045	+ 7.7	1.33	1.41
10 Java and Madura	8,082	8,680	+ 7	4,988	5,174	+ 4.0	.61	.60
11 Korea	8,849	8,928	+ .9	2,610	2,828	+ 8.4	.68	.72
12 Slam	6,394	6,357	- .6	4,560	4,244	- 7.0	.71	.67

(Extract from the Report of the Rice Production and Trade in the Madras Presidency 1934, page 2.)

Madras takes the fourth place among the provinces as regards acreage under rice cultivation, with Burma topping her by a close margin.

The Indian provinces are conspicuous in their poor yields per acre, while Japan and Italy are distinguished by their splendid

outturns. Madras takes the rather dubiously distinguished position of leading the other provinces in the yield per acre. The following statement taken from the *Indian Trade Journal* perhaps gives a better idea of rice production in the different provinces than the previous one:—

Provinces and states.	Area (thousand acres)		Yield (thousand tons)		Yield (per acre—lbs.)	
	1933-34.	1932-33.	1933-34.	1932-33.	1933-34.	1932-33.
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Bengal—						
Autumn	5,775	5,795	2,254	2,208	874	853
Winter	15,499	15,590	6,226	6,958	900	1,000
Summer	393	394	166	198	946	1,126
Total, Bengal	21,667	21,779	8,646	9,364	894	988
Bihar and Orissa—						
Autumn	3,354	3,330	956	936	638	630
Winter	9,829	9,702	3,322	3,251	757	751
Summer	40	40	14	14	784	784
Total, Bihar and Orissa	13,223	13,072	4,292	4,201	727	720
Burma	12,851	12,702	5,185	4,913	904	866
Madras	11,576	11,534	5,090	5,406	985	1,050
United Provinces (a)	6,003	6,187	1,737	1,334	648	483
Central Provinces and Berar (b)	6,886	7,055	1,984	2,009	645	638
Assam—						
Autumn	817	875	196	232	537	594
Winter	3,345	3,588	1,017	1,335	681	833
Summer	187	188	81	85	970	1,013
Total, Assam	4,349	4,651	1,294	1,652	666	798
Bombay—						
Autumn (b)	3,199	3,567	1,470	1,549	1,029	973
Spring	18	18	5	8	622	996
Total, Bombay (b)	3,217	3,585	1,475	1,557	1,027	973
Coorg	84	84	54	55	1,440	1,467
Hyderabad	1,110	997	299	293	603	658
Mysore	763	769	225	242	661	705
Baroda	225	226	65	63	647	624
Bhopal (Central India)	23	20	7	(c) ..	682	..
Grand total	81,977	82,661	30,353	(d) 31,089	829	(d) 843

(a) Includes autumn, winter and summer rice and also figures for the Rampur state.

(b) Includes Indian States.

(c) Not available.

(d) Excluding Bhopal.

(Extract from the *Indian Trade Journal*, dated 1st March 1934, page 801.)

Centuries of experience have led the Indian peasant to choose the best crop to suit his environment. In Madras, paddy cultivation has taken the first place and will keep it, because economically paddy should take the lead. Professor Mukerjee wisely remarks as follows:—"Notwithstanding the copious and favourable rainfall of China, Japan and India, each nation has selected the one crop which permits it to reap the full advantage, not only of practically all the rain which falls directly upon its fields, but in addition enormous volumes of the run-off from adjacent uncultivable mountain country. These nations have adapted conditions to crops and crops to conditions, until in rice they have a cereal which permits the most intense fertilization and at the same time the insuring of maximum yields against both drought and flood for dense populations. With the practice of Western nations in all humid climates, no matter how completely and highly they fertilize, in more years than not yields are reduced by a deficiency or excess of water. Rice, which gives a maximum yield is a good staple crop for dense populations. Where the population is not dense, however, it cannot be grown; for the cultivation of rice demands a large number of unskilled hands and arduous hand labour over relatively brief agricultural seasons. With a cheap supply of agricultural labour, little manure and with imperfect tools and implements, rice feeds large masses of population. Social cohesiveness among rice-growing peoples naturally is encouraged when a large population is concentrated in small fertile areas, while the flooding of the rice-fields during transplantation develops communal habits of agriculture and communal control of irrigation. It is this social cohesiveness which has governed the characteristic distribution of fields in China, Japan and India."

CHAPTER II.

The causes of indebtedness.

14. Rural indebtedness is not peculiar to India. The agriculturist all the world over is indebted to some extent or another. Mr. Darling states that in Prussia in 1902, 628,000 peasant proprietors carried a debt of £377 millions, and the farmers of the United States in 1910 owed £475 millions. In India itself, agricultural indebtedness is not a phenomenon which has appeared only in recent years. Sir Frederick Nicholson, in 1895, estimated the total debt of the rural population of Madras at 45 crores. In 1930, the Madras Provincial Banking Enquiry Committee estimated the debt at 150 crores. It will be seen later in this report what the present indebtedness is.

Every historian assures us that the Indian agriculturist has always been indebted. But the extent of indebtedness varies, not only with landed security which the agriculturist can offer, but also with the personal credit

he commands. But personal security, however, trustworthy, can never induce a man to lend freely unless the borrower holds property to back his credit with. The more valuable the property, the more the borrowing power; and if, as in India, forethought and caution are thrown to the winds and there is dire necessity for money at any cost, the more the borrowing power of the ryot, the more does he borrow. "Debt follows credit" as Mr. Darling says.

Prior to the advent of the British into India, the position of the Indian cultivators was most precarious. Torn as the country was by political strife and the ceaseless clash of rival powers for supremacy, the fear of constant ejection and dispossession of the land and the fact that the right of private possession of land was not firmly established, discouraged the ever-present money-lender from throwing his money about among agriculturists with that freedom and abandon, which characterized him later. The internal security conferred by the British gave to the agriculturist a secure tenure in his land. He was free to do what he liked with it. He could sell or mortgage it and the law courts respected these transactions. So the security the agriculturist could offer was suddenly vastly increased. And with the increase of security indebtedness shot up. Mr. Darling's theory of debt following credit, however, will not be applicable if the agricultural industry is one yielding a steady and substantial profit every year to a people who, with wisdom and forethought, live carefully within their means and put by the extra profits for a rainy day.

15. *Poverty*.—Quite apart from the character of the people, agriculture in India, with the exception perhaps of the raising of a few commercial crops, is not a profit-making concern. Its main concern in India is to provide food for the teeming millions. "In India agriculture is, with most cultivators, with uneconomic holdings, more a mode of living than a business," says the Royal Commission on Agriculture. The following observations of the Simon Commission hold as good to-day as they did in the past. "The low standard of living to which the mass of India's population attains is one of the first things that strike a Western visitor. Wants are few, diet is simple, climate is usually kind, and a deep-rooted tradition tends to make the countryman content with things as they are. But the depth of the poverty, the pervading presence of which cannot escape notice, is not so easily realized."

The gross value of the crops of the Madras Presidency in 1928-29 was estimated by the Madras Banking Enquiry Committee at Rs. 165 crores. The average prices of rice, cumbu, ragi and cholam taken together fell between 1928-29 and 1933-34 by above 50 per cent, so that the gross value of crops of the

Presidency in 1933-34 would roughly be Rs. 80 crores. Assuming that there was a rural population of 34 millions in the Presidency in 1933-34, we get a gross income from crops raised per head of population, of about Rs. 23-8-0. But the net income should be arrived at by subtracting from the gross value of the produce, the cost of cultivation, land revenue, interest payments and so on. The cultivation expenses may roughly be taken at 40 per cent of the yield, though I am perhaps estimating cultivation expenses at too low a figure. Hence, from a yield valued at Rs. 80 crores, we may deduct Rs. 32 crores for cultivation expenses. We should deduct 8 crores for land revenue assessment and rent paid to zamindars. This leaves a net agricultural income of 40 crores in 1933-34 to support 34 millions of people. Even assuming that no interest on debt is paid, we arrive at the figure of Rs. 11-12-0 as the income per head of rural population in 1933-34. Therefore, even in a year of normal rainfall, making no allowance whatever for a rise in the standard of living or for payment of interest on agricultural debt (no question of paying back the principal generally arises) a sum of about Rs. 15 per head (allowing Rs. 3 to Rs. 4 for income from other sources) has to suffice on an average for food, clothing and the numerous sundries which are required for a man, woman or child. Professor B. V. Narayanasami of the Annamalai University whose evidence will be found in Appendix I, calculates the present *per capita* income of the agriculturist at Rs. 7-8-0. I believe that this is rather too low a figure. My figure of Rs. 15 per head may perhaps be too optimistic, but it is safer to err on the right side and I am positive that my estimate cannot possibly be attacked as being too low.

The average ryot therefore is forced to live a squalid life, ill-fed, poorly clothed, wretchedly housed and with hardly any surplus for those extra amenities which make life worth living.

16. *Vicissitudes of season.*—There is general agreement that the return from investments on agriculture as regards the staple food crops, is low, averaging from 2 to 5 per cent in a normal year with average prices. *Normal* years are not very common in India. As Mr. Darling observes, "the monsoon may fail, or what is more likely near the hills, the rain may come at the wrong time; or a river may rise and sweep away harvest, hamlet and herd. In such circumstances, to support a family upon a few acres without getting into debt requires a level of skill, industry and thrift seldom attained in a hot country. Undoubtedly it can be done, just as a small sailing boat weathers the storms of the Atlantic; but, unless the boat is both well found and well manned, it will assuredly sink. In India, the farm is too often neither the one

nor the other, and nature can be almost as destructive on land as at sea." Mr. Darling rightly reckons that a cycle of five years will give one good year, one bad and three neither bad nor good which we may take as normal. In the good year, the ordinary small holder may just pay his way without a loan. In the bad year, he is forced to borrow for all his wants, including cultivation expenses, food and clothing. Even in the middling years, the cultivator, I maintain, is obliged to borrow to some extent, not only for special expenses like marriage or to buy a bullock, but also for his cultivation expenses. If payment of land revenue and of interest on standing debt do not absorb almost all his surplus, he may be able to pay off at least the recurring debt for cultivation expenses. Often as not, he is unable to do even this and so the borrowings for cultivation expenses go to swell the standing debt. I visited a famine work in the Anantapur district. Those working for famine wages included labourers and small landholders generally paying assessment up to ten rupees. On being questioned as to why landholders paying over ten rupees did not come and work, the village officers told me that it was beneath their dignity to do so. It was admitted that their lands also were lying waste, and land revenue assessment had been completely remitted. I wanted to know how the people came by the wherewithal to live with, since a remission of land revenue put no money into their pockets. The answer was that they had borrowed the money. "Did they borrow from co-operative societies?" I asked. "No" was the answer, "by the time the loan application goes through, the applicants, will certainly die of starvation." The fact was that these small landholders, in preference to earning their living by honest work, chose to borrow from money-lenders (including agriculturists and traders who lend money) at most exorbitant rates of interest. The wonder was that the money was so readily available.

17. *Ravages by wild animals and pests.*—Crop pests cause considerable damage. The rice bug for instance is a menace to paddy near forests and will often devastate a whole promising crop in a few days. The officers of the Agricultural department, when appealed to for help by the ryots of South Kanara, offered the bright suggestion that an enormous net should be procured to cover the fields and net such insects! A cloud of locusts can lay bare a vast expanse of cultivation in a few hours. Some years ago, I was an eye-witness to such a visitation in the Anantapur district. The locusts suddenly appeared in millions. I thought we were caught in a great dust storm. Shortly afterwards, the ground was covered with a carpet of these insects 6 inches deep.

Wild animals like elephants, pig, bison, deer and monkeys are regular visitants from forests to neighbouring fields. In Coimbatore

or in South Kanara, for instance, a herd of wild elephants will tear down and completely devastate in a short time a fine plantation reared with infinite care and immense expense. Again, the rat is a greedy rodent which is reputed to consume 6 lb. of grain a year. Professor Mukerjee estimates the loss caused by rats in India per year at Rs. 22 crores.

18. *The character of the people.*—In order to estimate correctly the character of the Indian farmer, one has to trace his history from the earliest times. The Indian farmer has been and will always be the foundation of the economic structure of India. His welfare is a national concern, which should not and indeed cannot be ignored by the State, without eventually leading to catastrophe. This responsibility of the State for the welfare of the farmer has been stressed strongly by every investigator into rural economics. For instance, according to the Central Banking Enquiry Committee, the Businessmen's Commission on Agriculture in America say in their report: "Agriculture is not merely a way of making money by raising crops; it is not merely an industry or a business; it is essentially a public function or service performed by private individuals for the care and use of the land in the national interest; and farmers in the course of a living and a private profit are the custodians of the basis of the national life. Agriculture is therefore affected with a clear and unquestionable public interest and its status is a matter of national concern calling for deliberate and far-sighted national policies, not only to conserve the natural and human resources involved in it, but to provide the national security, promote a well-rounded prosperity and secure social and political stability."

During the series of administrations prior to the advent of the British, "the environments created by the State were such as to depress and discourage productive efforts of all kinds. However benevolent might have been the intentions of the autocrat at Delhi, they were often frustrated by the cumbrous machinery of his administration and the general corruption of his officers. Internal order and security were still unknown, especially in the outlying parts of the Empire; and it was the rule rather than the exception for the strong to prey on the weak . . . The net result was to weaken the will to produce and encourage the investment of any surplus wealth in such unproductive forms as hoarding. A rise in the standard of living was an impossibility under these conditions." The farmer was the most oppressed of all. He dared not show signs of prosperity for fear he should be ejected from his land. No one bothered about his welfare. He remained uneducated and his ignorance and simplicity were taken advantage of by his oppressors, who squeezed him at every turn.

The earlier years of the East India Company's advent brought little improvement into the condition of the farmer. At first, the Company was but little interested in the agricultural production of the country. The abolition of the East India Company's monopoly in the Eastern trade marks the beginning of a new era in English commercial activity. The Royal Proclamation of 1858, by which Queen Victoria assumed the direct sovereignty of India, ushered in a period of progress in all directions,—communications, trade, agriculture and so on. The entry of India into the markets of the world was followed by a rise in agricultural prices. Agriculture became more commercialized. But such favourable results were inevitably attended by undesirable features. With an increase in agricultural prosperity, the moneylender came more to the fore. More tragic was the gradual growth of an army of unscrupulous middlemen. The poor ryot in his simplicity borrowed freely and without scruple, because the money was more or less thrown at him by a horde of creditors and prompt repayment was not insisted upon. The middleman with his wily ways absorbed almost all the surplus profits of agriculture. Land was mortgaged up to the hilt. Lack of education and co-operation, poor village communications and above all want of marketing facilities, made and still make the ryot an easy prey for profiteers. He does not save enough from a good harvest, to serve him as an insurance in case of a failure of crops. For one thing, there are no sound institutions within easy reach of him to put his savings into. Insurance facilities have not been extended to the small farmer. He has not been taught to save or balance his budget. His everyday wants are few, but now and then he "goes on the burst" and indulges in an orgy of expenditure for a marriage or a funeral.

Centuries of oppression might be expected to have turned the Indian farmer into a callous brute, whose finer feelings have all been soured. This is not so. The Indian agriculturist is still a fine fellow, surprisingly clean considering his environment and poverty, deeply experienced in the cultivation of the crops he has specialized in for ages, and with a really well-developed standard of honour. His sense of humour has not been scorched out of him. A friend of mine driving a car was held up by the inevitable cart in the middle of the road, with the old cartman lolling at ease in it with a cigar in his mouth. No amount of hooting or angry shouts could stir the old man into action. He appeared to be in a deep trance and not a sign of intelligence was visible in his vacant countenance. My friend got off his car and proceeded to exhaust himself by a stream of indignant words. Finally, he demanded in lurid language what the cartman meant by appropriating the whole road to himself when he paid no tax for it. The

old rustic heard the speech through quietly and at its finish replied with the laconic question "which came first into India, the cart or the car?"

It is not an impossible task, as so many people imagine, to educate in rural economics the ryot and labourer and to instil into him wisdom and thrift in managing his affairs as well as self-respect and a realization of the benefits of co-operation. He should be approached, however, with sympathy and understanding. He is naturally deeply suspicious of those who try to reform him, because of his bitter experience in the past; but patience and perseverance are bound to succeed with such pliable and essentially sound material. The Indian Statutory Commission have, like all other Commissions sent out to India, recognized the position of the agriculturist and state as follows:—

"In spite of the progress that undoubtedly has been made and of the great increase in the gross wealth of the country, the ordinary cultivator on his tiny plot is still a man of few resources with small means of meeting his limited needs—usually illiterate, though not on that account necessarily wanting in shrewdness with an outlook confined by tradition and environment and needing above all things that those who consider his future as a citizen should understand something of his life as a man."

19. *The rise in the standard of living.*—Mr. Pillai observes as follows: "The English labourers of to-day command many conveniences, comforts and luxuries denied to the nobles of Elizabeth's days. But the Indian labourer of Akbar's days, there is reason to believe, led pretty much the same life as his rural *confreere* of the present time. The great bulk of the population lived on the same economic plane as now. We cannot be sure whether they had a little more or a little less to eat, but they probably had fewer clothes and they were certainly worse off in regard to household utensils and to some of the minor conveniences and gratifications of life. One curious result of this unchanging standard of living is that, even when opportunities are afforded to the Indian labourer to earn higher wages, he uses his greater earning power to do less work, and enjoy greater leisure, rather than to earn more by working more regularly or by improving his efficiency." The explanation for this almost stationary standard of living and for physical and mental inertia can be sought partly in the poverty of the people, which prevents them from raising their standard of living, and partly in the lack of a desire to progress born of years of suffering and oppression.

The success of a wise, progressive and sympathetic administration can be gauged by the standards of living adopted by the people. Given proper education, a spirit of hope and

enterprise, freedom to expand in and a reasonable surplus over and above the bare necessities of life, the standard of living must increase. It cannot remain stationary. Through bitter experience, the Indian peasant's outlook on life is pessimistic in the extreme. It is only of late that there have been signs of a new attitude and a fresh vigour. A rising standard of living cannot lead to increased national prosperity, unless such a rise is accompanied by a stronger urge to grapple with difficulties, improve efficiency, and thereby earn more wages and wrest more from the land.

The series of years of high prices, before the economic depression, certainly have helped to raise the standard of living of the agriculturist. He wears better and more clothes, his food is more elaborate and tasteful, and he is inclined to spend more on sundries. Coffee and tea shops have sprung up like mushrooms all over the country. Where a yokel in the past would have cheerfully walked ten miles to get to his destination, he pays now for a bus ride. The increasing volume of unemployment among graduates, intermediates and S.S.L.Cs., has brought to the villages a band of discontented youths, with expensive and often vicious tastes and a contempt for manual labour and drab village life.

The increase in the standard of living has naturally added its quota to the volume of debt, especially so after the onset of the depression, when, in spite of the sensational fall in prices and rise in the value of money, the standard of living has failed noticeably to come down. A set of new wants satisfied by years of prosperity cannot easily be ignored when adversity sets in. The agriculturist, accustomed to his new standard of living naturally clings to it, even by borrowing in times of adversity.

20. *The money-lender.*—Much has been written about money-lenders and their ways. The Madras Banking Enquiry Committee has given a very detailed and good account of them. In several provinces, there are regular classes of money-lenders. In Madras, professional money-lenders, like Marwaris and the Chetti banking community of the Ramnad district, are not plentiful. Yet professional lenders of money are not as scarce in Madras as sometimes represented. Those, whose sole occupation is that of money-lending, drive a harsh bargain with the agriculturist and give little concession to him when he is in difficulties. The Marwaris in particular charge from 18 to 50 per cent simple or compound interest and often more. Their operations are distinguished by the most hard-hearted ruthlessness.

The lenders of money to agriculturists in this province are mostly agriculturists or traders. The ryot money-lenders own land themselves and belong to the same communities.

as the ordinary agriculturists. The ordinary interest they charge varies from 9 to 18 per cent. Loans are given mainly on pro-notes, on personal security or on joint security; but they are granted also on the mortgage of landed property. A short period is fixed for repayment of pro-note debts, generally a year or ten months, and interest has to be repaid in regular instalments. Creditors know very well that borrowers can seldom keep to the terms of repayment. If the interest is not paid on the due dates, penal interest from 18 per cent upwards is charged. The law of limitation of three years on pro-note debts leads to frequent renewals of pro-notes. At every renewal, the principal is entered with its unpaid interest (commonly penal rates) as the fresh principal. Hence, pro-note debt increases rapidly and heavily by the accumulation of heavy penal rates of simple interest, as well as by compound interest with three-year or shorter rests. When several renewals of pro-notes have been made, the debt has multiplied itself many times over and generally ends by being converted into a mortgage debt. Finally, the creditor forecloses and takes the poor ryot to court. Here the creditor secures his decree, generally *ex parte*, and eventually takes possession of most of the ryot's land. The ryot loses his land and becomes a tenant or a labourer. The creditor, whose landed property is thus gradually augmented, is little interested in cultivation. He lets out his lands on the best terms he can secure.

No receipts are given to ryots for repayments; but such are generally noted in pro-notes or other documentary evidence of loans. This is left to the will and pleasure of the creditors. There is nothing to prevent them from not noting them. Certainly, the repayments are not entered separately against principal and interest. The agriculturist borrower, who is often guileless, thriftless and an irresponsible simpleton, accepts as true all that the creditor says to him. Generally he does not exactly know what he owes at any particular time. He can tell you how much he first borrowed. He can also tell you the rate of interest. But he seldom calculates the total interest he has to pay every year and generally loses track of the repayments he has made. I was permitted by a kind agriculturist money-lender to examine his pro-notes and accounts. The accounts are simple day books. No separate accounts of interest and principal due are maintained. The backs of pro-notes contain entries of repayments. I am not able to say, however, if these are entered regularly and correctly. The balance due seldom seems to be struck except in the last stages, when the debtor is taken to court. The dictum 'once in debt, always in debt' is often too true.

Interest is frequently deducted in advance, so that the borrower is only paid his recorded loan minus the interest; but such deductions,

I fear, are not taken into account when the interest due is calculated subsequently. The recorded loan is treated by court as the sum actually paid to the borrower. These practices are in use among agriculturist as well as professional money-lenders. I give below a short resume of the results of conversations I had in the last six months with some typical money-lenders.

(a) *Conversation with a leading agriculturist money-lender of Chingleput district.*— (I have verified the facts from the documents themselves.) This gentleman is a Mudaliar. He pays a land revenue assessment of about Rs. 1,000 and, as the owner of a shrotriyam village, pays quit rent of Rs. 300. His money transactions now cover over a lakh of rupees. A large amount of his land was acquired by foreclosing on his clients when they were unable to repay their debts to him. He got the major portion of his land by court-sale but also came by some of it by private negotiations.

He keeps a set of accounts but does not render statements to his debtors, nor does he give them receipts. About two-thirds of the loans due to him are on pro-notes (mostly joint) on personal security. About a third of the loans are on mortgages of immovable property. Very little has been lent on jewels (he states that generally Marwaris and Nattukottai Chetties lend on the security of jewels), though many money-lenders are now anxious to lend on the pledge of jewels, seeing that land value has fallen so much.

He is strongly in favour of legislation for keeping and rendering accounts on the lines of the Punjab Acts. He is doubtful if registration of money-lenders will be practicable, but thinks it will be a good move.

He generally lends at 12 per cent simple interest; but writes down 24 per cent in pro-notes to put fear into his clients. He says he always charges simple interest, yet seems to have experienced great difficulty in collecting his dues in the last three or four years owing to the depression.

He is not at all in favour of debt conciliation, if such legislation will burden him with more land which he does not want. He wants cash and is quite prepared to compound for a reasonable proportion in cash. He declares that the period recorded in mortgage deeds is never adhered to and that, even though two and three years are mentioned, the average duration of a mortgage is over six years. The following pro-notes in his custody were examined:—

(1) Loan of Rs. 3,500 on 5-3-1931. Interest Rs. 1-8-0 or 18 per cent. (He says he actually collects at 14 annas.)

Repayments:—

Rs. 492 on 11-6-1932.

Rs. 600 on 12-4-1933.

Rs. 700 on 12-1-1935.

These repayments though entered on pro-notes, do not show separate accounts for principal and interest. According to him, the repaid amount of Rs. 1,470 represents interest for four years at 10½ per cent and the balance represents repayment of principal. (Unfortunately, it has not struck the creditor or the borrower to reduce the principal by the amount repaid, for calculation of future interest.) The creditor states that if debt is repaid out of court, 10½ per cent interest will be charged, but if the matter is taken to court, 18 per cent will be charged. (This condition presumably applies to the interest already repaid.)

(2) Loan of Rs. 1,882 on 15th February 1931, for discharge of previous debts. Interest at 12 per cent. No repayments of principal or interest subsequently.

(3) Loan of Rs. 3,000 on 22nd April 1931 at 12 per cent. Repayments recorded on pro-notes; Rs. 300 on 5th January 1932 and Rs. 500 on 31st August 1933. These repayments are said to represent interest, though not recorded as such. The creditor also declares that a sum of Rs. 200 was subsequently repaid. This sum is entered in the general account, but not on the pro-note.

There are several pro-note loans to agriculturists at 9 per cent and many renewal pro-notes in discharge of prior loans. These pro-notes are mostly on joint personal security.

The following are a few loans on the mortgage of immovable property, the documents of which were examined.—(1) Loan of Rs. 400 at 12 per cent interest on 27th January 1924, on mortgage of one house and one acre and 45 cents of land (mostly wet land), Rs. 250 repaid on 9th August 1930 and Rs. 50 on 31st March 1934. All this said to be for interest due. No principal repaid.

(2) Loan of Rs. 400 on 5th December 1929 at 12 per cent on the security of a house and one acre and 36 cents of wet land. No repayments.

(3) Loan of Rs. 2,000 at 12 per cent on 29th July 1925, on the security of 7 acres and 50 cents of wet lands. The following repayments have been recorded on the document and are said to represent interest:—

Rs. 240 on 4th September 1926.
 „ 250 on 29th September 1929.
 „ 240 on 5th December 1930.
 „ 240 on 17th September 1932.

(b) *Conversation with another agriculturist money-lender of Chingleput district.*—A Nayudu by caste. He was a cultivator pure and simple about five years ago. He started money-lending then in partnership with two others. They have lent out about Rs. 40,000 to Rs. 45,000 in cash and are repaid in cash. Only short term loans are dealt with, and money is lent only on joint pro-notes and not on the security of movables or immovables. Suppose A borrows Rs. 100; he is given Rs. 90 in cash, Rs. 10 being deducted for interest for ten months. The repayment should be made

in ten months in monthly instalments of Rs. 10. If instalments are not paid regularly a penal interest of 18 to 24 per cent is charged. The pro-notes all recite an interest of 24 per cent to be on the safe side, but the actual collection is only said to be 10 per cent for ten months. The money-lender declares he is compelled to take his clients to court now-a-days as times are hard (which means that the penal rate of interest of 24 per cent comes into operation). The demand for loans is increasing, but less is being lent out. Interest is not rising, though credit is being shortened. Most of the present loans are for family expenses, as land is yielding very little in terms of money. The majority of the clients are small landholders with 1 and 2 acres of land each. Farm-servants and coolies are lent not more than Rs. 25 each. Tenants borrow as much as they can. Most of the land is pledged up to the hilt and often over and over again. The money-lender is agreeable to the scaling down of debts by debt conciliation boards, if the scaled down amount is discharged in cash.

(c) *Conversation with an agriculturist money-lender of Kistna district.*—He started with four lakhs capital and now has sixty lakhs. He charges interest at Re. 1-4-0 per hundred. He is not at all keen on getting back his capital, but wants only interest. He came by 1,500 acres of land at very low prices from his debtors. He always has hundreds of suppliant-debtors in his compound, crying out "save me!". He says the Government must come to the rescue. When Rs. 30,000 has been lent out, he tells me that lenders will not accept land at once in payment, but will wait till the debt swells to Rs. 50,000 and then take all the land. He lets his land out on lease. Now no one borrows from him. Land has fallen remarkably in value during the last few years. The ryot is plunged into hopeless despair. There was a regular house to house visit by money-lenders in 1928-29, who forced money on ryots, even when they were unwilling to take loans. All lands are now either attached by or mortgaged to money-lender. The Kistna and Godavari ryots are bound hand and foot. There is a network of cross-sureties taken for pro-notes. The money-lender wants a stay of all proceedings against land for a definite period for recovery. He is eager for a settlement of debts, for he has learnt a bitter lesson. Money-lenders are putting much pressure on their clients in the last few months through fear of Government interference.

(d) *Conversation with an agriculturist money-lender of Ramnad district.*—He is a Nadar by caste. He has lent out over two lakhs. He now finds great difficulty in getting back even interest. He lends at 9 to 12 per cent and tries his best to avoid civil courts. He negotiates privately with debtors and tries to buy their lands in discharge of debts. He leaves a bit of land over for debtors. When he gets lands, he leases them out, or leaves them waste. He does not

generally lease out to the ex-debtor. He buys land at the present market rate. He prefers cash to land. He will forego interest, if he can get back the principal in cash. He finds that farm-labourers are generally not much indebted.

Court-fees and court costs are extravagant and the law's delays are tremendous. He has to incur as much as Rs. 50 to Rs. 100, in costs for a suit for Rs. 100. He proposes disposal of civil cases by lots, as the "decision in civil courts are often so frivolous and arbitrary." He says that he is compelled to bribe all court officials except the Judge! He wants quick decision and not this dragging on.

(e) *Conversation with two prominent Nattukottai Chetti bankers of Karaikudi in the Ramnad district.*—These are large landholders under the Sivaganga zamindari. They lend out in India only to cultivating tenants. They find no difficulty in collecting payments. They take principal and interest from the thrashing-floor. They go to court only in about two out of ten cases. They lend ordinarily at 9 to 12 per cent compound interest with one yearly and six monthly rests.

When they go to court, they say they have to pay *mamuls* to process-servers even for summonses and very much more for executions. If they do not give these bribes, the process-servers will go to the defendant for money. These practices are absolutely common and general according to them. There is much delay in civil courts. The difference in production and price of paddy in Burma and India is not due to the difference in the incidence of land revenue. They are due, because, in Burma, the people work harder, the land is better, the rain is more regular, land value is less and cultivation is more scientific than in Madras. Much land in Burma, the Federated Malay States and India is passing into the hands of Nattukottai Chettis, who want to sell but cannot find buyers even at 25 per cent below the present market value. In the Federated Malay States, disposals in civil courts are much quicker than in India, and court-fees are less. A civil suit in the Federated Malay States is on the average disposed of in one or two hearings and not civil courts are much quicker than in India. The registration of documents in the Federated Malay States is better. The original documents—sale records, etc.—are invariably consulted and used for recording all subsequent transactions. Official receivers are much quicker at their work and there is less bribing of *amins* and other court officials.

Many high placed officials and experienced non-officials have declared that the problem of agricultural indebtedness is not acute in this Presidency, because most of the credit comes from the agriculturists themselves, who are accommodating and sympathetic and not addicted to the malpractices, which have made the professional money-lender a by-word. The examples I have given of typical agriculturist money-lenders will show, that even if deliberate malpractices are few, the system

of accounts maintained and the methods of lending adopted are loose, unsystematic and capable of gross abuse by the unscrupulous. The borrower is such an ignoramus that he is entirely at the mercy of his creditor, once he has borrowed. One of the District Judges whom I have consulted remarks as follows: "I have little doubt that in many instances agriculturists are deliberately cheated by money-lenders, who secure from illiterate victims more than what is intended; and when the security is eventually sued upon there is nothing but the word of the ignorant victim against the evidence of the written evidence, that the consideration was much less than what is set out therein. A common practice is for the money-lender to deduct from the principal amount anything from 10 to 20 per cent as 'advance payment of interest'. This is of course failure of consideration from the outset to the extent deducted, but future interest continues to be calculated on the principal amount shown in the documents." One cannot but agree with Mr. Darling when he says, "There is little to choose between him (the agriculturist money-lender) and his professional rival. The one is as harsh as the other is astute, and both are demoralized by the system under which they work. Under this system, the creditor is in danger of being turned into a tyrant and the debtor into a serf. The cultivator sows that another may reap, and toils that the creditor may gain. Of what use to him, then are all the devices for improving the quantity or the quality of his harvest? As well teach him to convert his bullock-cart into a lorry, for all the good that it is likely to do him. Economic freedom is a condition precedent to progress, and to the Indian cultivator no progress is possible till the power of the money-lender, agriculturist or *bania*, is broken. As a German writer says, 'usury must be fought to protect not only the weak but the whole industry of agriculture against a parasite which threatens its foundations'."

Though, considering the risks involved, fairly moderate rates of simple interest are ostensibly charged, these rates of interest from 9 to 18 per cent are really seldom, if ever, applied. In reality the heavy penal rates of 18 per cent and upwards are in force. These are the rates which are entered in documents for the edification of courts. The law of limitation helps the lender to charge compound interest with frequent rests. Often enough, compound interest is charged with yearly rests. Agriculture as an industry gives a return of from 2 to 5 per cent in a normal year. To borrow for such an industry at even 9 per cent is therefore unsound, and obviously such loans cannot be repaid without encroaching upon capital, which is the land itself. In order to repay loans, agriculturists borrow again and again. So the standing debt gradually increase till it overwhelms the small and medium landholder and deprives him of his land, leaving him helpless and destitute. One poor ryot, whom I examined, borrowed Rs. 40 on pro-note a few

years ago. He was forced to renew the loan several times and finally renewed for Rs. 400, to which the loan had swelled in a few years by the accumulation of unpaid compound interest. The moment this renewal was made, the creditor took the ryot to court and got his decree for Rs. 400 with ease. He took possession of all the ryot's land, which stood at about this value then, but which was worth about Rs. 1,000 before the depression. The ryot is now landless, having had to part with land worth at one time Rs. 1,000 in discharge of a paltry loan of Rs. 40.

Traders and middlemen also lend money to agriculturists. They lend generally for cultivation expenses at very high rates of interest. Loans in kind, like the grain loans in Cuddapah known as "Nagu," bring in interest from 50 to 100 per cent per annum. These are generally short-term loans repayable in 3 to 12 months and are collected at the thrashing-floor at harvest time, or at the houses of the landholders. The emissaries of these money-lenders squat upon the land or in the *payals* of the houses and refuse to budge till the loan is paid. They employ threats, and, I fear, often resort to force. They charge a daily *batta* for the days of waiting. The desperate agriculturist has to part with most of his grain. If this is not enough, he rushes about borrowing from others. The need is so great that money or grain is borrowed on any condition and at any price.

Traders, especially in isolated localities with difficult means of communication, as in the Palni Hills of the Madura district, hold a monopoly in general stores. The ryots must get their supplies like provisions and clothing, from them. Advantage is taken of this monopoly to drive iniquitous bargains. As the ryot usually has no money to offer, he has to borrow his stores. The interest charged is often over 100 per cent. The quality of the articles is unsatisfactory—bad grain, poor clothes, etc. The prices are exorbitant and the interest charged startlingly high. But worse still, these traders usually stipulate, when lending, that the ryot must sell his produce to them. The prices given them are absurdly low. False measures and weights are freely used and in every way the ryot is held in a relentless grip from which he cannot extricate himself. These malpractices have gone to such lengths in the Upper Palnis that potato cultivation has practically been abandoned.

The agricultural labourer generally has no land to offer as security for his loans. He can only offer himself. So, as in the *gothi* system of the Vizagapatam Agency, a labourer who wants a loan gets it on binding himself and often his family to service under his creditor for periods which extend to many years. This type of borrowing is found in some form or other scattered all over the Presidency. Once bound to slavish service in this way, the labourer finds it difficult to

extricate himself. The creditor seldom keeps to his contract, and rarely releases his virtual slaves after the period stipulated has been served. By fraud or subterfuge, he tries and often succeeds in binding the labourer for life to his service. When I was serving as Special Assistant Agent at Koraput, desperate labourers came to me in hundreds, praying for succour from their relentless masters. Such forms of virtual slavery are relics of the pre-British India. They are abominable customs, which should be rooted out by legislation. "The evidence set forth in the Report on Slavery of 1841 shows clearly enough that serfs were a normal element in the rural population of pre-British India. It says that something like slavery existed in the North Indian provinces up to the period at which they were under British rule. Even at the present day, the Pulayas of the Malayalam countries, the Padials of the Madras Presidency and the lowest classes of agricultural labourers in the Bombay Presidency and the Central Provinces occupy pretty much the same position."

The money-lender has no doubt served a useful purpose in supplying credit to agriculturists. But the almost fatal ease, with which such credit can be obtained, and the high rates of interest charged, have led to the present overwhelming burden of standing debt. These creditors do not trouble to find out whether the money they lend out is for a productive or an unproductive purpose. It is, therefore, necessary to substitute for such credit a much cheaper and regularized form.

21. *The middleman and the lack of marketing facilities.*—By middlemen I mean all the classes of speculators and traders, who act as intermediaries between the agriculturist producer and the consumer. More specially do I refer to those who connect the producer with the retail seller, the exporting merchants and firms and the factories and firms which buy raw material and convert it into finished products or products fit for export. In the past, when lack of communications limited the Indian market to localities in the vicinity of the producer, and when the Indian market had little or no connexion with world markets, the agriculturist was often able to sell to the consumer direct in fairs and shandies and the problem of the middleman hardly arose. Now, with a network of quick railway communications and fast shipping connecting all parts of the world together, the middleman has stepped in and firmly established himself.

While the money-lender serves a useful purpose in supplying money to the ryot, the middleman serves an equally useful purpose in acting as a channel for the distribution of produce from the remote village to the markets of the world. But the money-lender, as we have seen, has become a danger to the peasant. In the same way, the middleman has abused his position by wresting nearly all the surplus profits from the ryot. Especially burdensome

are the operations of the middleman or trader, when he also lends to the ryot for cultivation expenses, at interest which may be anything up to 100 per cent, on the condition that the crop is sold to him. This type of middleman makes a double profit. He profits by lending as well as by buying, if such a term as buying can be used for the coercive methods adopted by this wily class in forcing the needy and ignorant ryot into parting with his produce.

There is a certain season in the year, generally from January to March, when the principal crops are harvested and when the agriculturist is compelled to get ready money to pay his land revenue and other commitments. The prices of grains and other agricultural produce are the lowest at this period. Yet the ryot is compelled to part with the major portion of his produce in order to find money to pay his dues. It is at this critical time that the middleman is on the prowl. He is helped by lack of facilities for storing crops in villages and towns. The want of godowns and of a reliable and cheap credit agency to advance on the security of crops, compels the ryot to part with his produce at this critical period to the middleman and trader. If he could only obtain an advance for his immediate needs and hold over selling for a few months longer, he would obtain much higher prices.

An officer of the Agricultural department with some others went *incognito* to a road, along which the ryots were in the habit of taking their produce from a group of villages to town. They watched near a *mandi*, as the shop of a certain class of middlemen is known. A cart containing bags of groundnut came by. The middleman and his minions came out of the shop with sticks in their hands. While two or three engaged the driver and his companions in conversation, the others commenced removing the bags of groundnut from the back of the cart. The cartman and his fellows soon spotted this and protested, saying they wished to sell their groundnut in the town. Their protests were in vain. By persuasion and by threats and even by the use of force, this middleman and his men, who might as well be called dacoits, forced the poor ryots to sell their produce to them. The price they paid was fixed by them. No protest by the ryots was of avail. So the ryots with a little money in their pockets turned their empty cart and went back to their village.

Quite apart from the often arbitrary and ridiculously low prices paid by middlemen, the commissions they take and the deductions they make for various alleged purposes like charity are legion. But, above all, the ignorant ryot is duped by false weightment and measurement. One way is to use false weights and measures, not stamped by the Government stamping party. The middlemen keep one set of proper weights and measures for inspection and another for weighing and measuring. They are helped in the use of such false standards by the

bewildering variety of weights and measures in vogue in the country, which vary not only from district to district, but often even from taluk to taluk. The stamping party often prints its stamp near the tops of the measures. So, these can be, and I believe are, cunningly altered at the bottom without interfering with the stamps. Even with genuine weights and measures, an experienced measurer can without detection make a false weightment or measurement in spite of the closest watch. So clever are these men. I would estimate the loss to the agriculturist by false weightment and measurement at from 5 per cent to 30 per cent. There are other means of cheating, like sprinkling water on the grain before measuring.

I interviewed a deputation of ryots at Coonoor, who represented their grievances about potato cultivation and marketing. I verified from officers of the Co-operative and Agricultural departments that these grievances were substantially genuine. They are as follows:—

Ryots on the Nilgiris, as in other similar places, are unable to cultivate their lands or buy provisions without borrowing. They borrow from traders and merchants generally at Mettupalaiyam at the foot of the hills. If artificial manure is bought, interest at Rs. 2 per bag of manure, which is worth Rs. 12 is charged for a period of three months. This amounts to 67 per cent per annum. Provision dealers supply provisions on credit and bind the ryots to sell their potato crop to them. If rice is lent, a measure per rupee is taken as interest at the outset and further interest of 24 per cent charged. Repayment should be made in a year. These lenders bind the ryots to sell their potato crops to them. The latter have to cart the potatoes to Mettupalaiyam at their own cost, a distance down the *ghat* of from 15 to 30 miles. They are paid a price of from Rs. 3-8-0 to Rs. 4 per bag of about 200 lb. These merchants and dealers eventually sell potatoes at Madras for Rs. 8 a bag, after meeting all costs of transport, etc., and make a net profit of about Rs. 4 a bag. If ryots want seed potatoes, they are obliged to buy them at Rs. 7 to Rs. 8 a bag while they themselves sell at Rs. 3-8-0 to Rs. 4 a bag. They are compelled to sell at Mettupalaiyam at any price offered; often they are not paid immediately, but are told to go back to the hills and return later for payment. When they return to Mettupalaiyam, the dealers pay them, after deducting for what they allege is for damaged potatoes and so on. False weights and measures are freely used. The prohibition rules on the hills for Badagas induce them to go to Mettupalaiyam frequently to drink. They spend much of what they get for potatoes at Mettupalaiyam on drink and return almost empty-handed.

I submit that the retail prices in ryot's selling months, published by the Board of Revenue and adopted for revenue and settlement purposes often may not represent the

actual prices which the ryot gets. Especially is this so for special crops, expensive to raise, like sugarcane, tobacco and cotton. The coast land in South Kanara, south of Kasaragod, is cultivated with excellent tobacco. The Mappilla who specializes in this form of cultivation is compelled to borrow at exorbitant rates of interest from middlemen, who stipulate that the tobacco must be sold to them. The ryot is compelled to sell at about Rs. 6 a unit of tobacco. The tobacco is eventually sold at Rs. 20 a unit in the open market. It is a fallacy to assume that special crops bring in heavy profits to the cultivator. They will certainly do so, if chief credit is available for cultivation expenses and the middlemen do not swallow almost all the surplus profits. But, as things are at present, the cultivator of special crops is even more hard hit than the agriculturist who sticks to paddy cultivation. Like vultures, these traders and dealers hover over the areas under special crops, ready to devour the helpless ryot.

Mr. T. Adinarayana Chettiar has written an excellent report on *Marketing of agricultural produce in South India*. The following are extracts from his report, which are only too true:—

“ That the average farmer is unfitted by education and upbringing, not to speak of his want of belief in his own destiny, to fight against the organized, clever and resourceful buyer is only a truism. One can see in any weekly market a bag of onions being sold for four annas or even less and a bunch of about 150 bananas for 2½ or three annas, not as a rare occurrence but as a daily fact. Want of marketing intelligence, which, in the case of industrial products, is hourly shifting, the smallness of the farmer's output, the absence of access to the markets, the perishable nature of his produce and above all his want of financial position to hold out against better prices—all these combine to produce this unfortunate result. The remedy lies in organization and finance. . . . The practices of the wily middleman in groundnut trade would stagger imagination, not to speak of the plight of the ryot who had taken advances from the Sowcar-trader on the express understanding that he is to sell his produce to none else. The false market prices quoted by the buyer, the false weights he uses and the innumerable deductions and above all the deduction for charity are common knowledge. The Bombay dealer has invented another deduction, viz., the *pinjrapole*. . . . In South Arcot, in addition to the illegal deductions, there is the practice of *thallupadi*, i.e., knocking off two pounds for each lot handled, besides the liability to personal motive and forcible bringing in of the crop-laden carts to the middleman's *mandis* (depots). Although in the case of goods, the trade of which is no longer local, e.g., cotton and groundnut, it is easy to know the current rates telegraphically; when the middleman goes with money to the ryot's door and forces an advance on him, this knowledge is not

available to the ryot. . . . As regards perishables, the profits made by middlemen are even more. Green plantains and betel leaves travel up to Kanouj and up to the very foot of the Himalayas. There are no ready means of ascertaining the current prices in the purchasing provinces. That this trade is not negligible would be evident from the fact that in three railway stations in Trichinopoly district green bananas are booked to the value of Rs. 5 lakhs. Mangoes lend themselves to similar handling. . . . The middlemen and the indigenous bankers now undertake the financing of the ryot with the unavoidable result that the ryot's margin of profit is next to nil. Lack of funds handicaps the ryot not only as a purchaser but as a seller as well. For, if he is in debt to the middleman, he is compelled to sell his produce immediately after harvest when prices are low. Often he is in want of money even to cart his produce to a central market. Financial help will render the ryot a more competent seller, i.e., increase his bargaining power.”

22. *Litigation, local politics and faction.*—These three causes are more closely interwoven with each other than may be imagined. The increasing interest in local politics compels the villager to take sides with rival parties contending for office in the various elective bodies—panchayat boards, municipal councils, taluk boards (since abolished), district boards, the Legislative Council and even the Assembly. Election time is a period of extravagant moneyspending, upheaval and turmoil. Much bitter feeling is both engendered and augmented. There is a growing tendency for leading lights in villages to plunge into local politics. The inevitable law tout is always ready to do his bit of propaganda for litigation, and no doubt one of his main causes of success is the existence of party feeling and faction.

There are certain districts famous for their factious villages. Guntur and Tinnevely may be cited as examples. Members of rival castes and communities spend all their spare time in consolidating their own position and in trying to do the other side down by fair or foul means. False cases are concocted by hundreds, riots and even murders are common occurrences, and much money is wasted. A lawyer frankly told me that he would put litigation and the presence of the law tout in the village as the main causes of indebtedness. Members of factious villages are always going to civil and criminal courts miles away from their homes. The frequent adjournments drag these cases on for months and even years. The moment these cases are decided, appeals are launched as a matter of course till the highest tribunal is reached. Experienced lawyers are engaged and money is spent like water on lawyer's fees, court fees, mamools to court subordinates as I am told, *batta* to witnesses, fees to petition writers and touts, the manufacture of false documents, bribes to false witnesses, food for the gaping crowd, which invariably follows the contending parties to court and so on. When all

appeals have been exhausted, fresh cases arise out of the ashes of the old like the mythical *phœnix*. The intricacies of Hindu and Muhammadan Law and the complicated forms of land tenure help to swell litigation. Faction, politics and litigation therefore are together responsible for much of the unproductive debt. This is the view of a District Judge whom I consulted: "I consider that one of the principal causes of indebtedness in this Presidency is the passion of the Indian villager for litigation; a passion which is undoubtedly encouraged by the system of tutoring which is all too prevalent. Unfortunately, the Indian villager can never appreciate when his cause is lost. He refuses to recognize the fact and to accept the decision as final. Instead he continues to throw good money after bad and goes on hypothecating his family property and pledging his all in a vain attempt to win at the last fence. In this he is encouraged by the village law touts who encourage false hopes from a purely selfish motive of getting a little commission for themselves out of the business. One constantly comes across appeals and suits and other matters which never had a chance of success from the outset. They should never have been brought and in some cases this is so obvious that one is inclined to suspect that some vakils encourage their clients to persist in foolish litigation instead of being honest and advising them to cut their losses and save their money."

Villagers have too much idle time on their hands. They have all their evenings free and have no cultivation to do for about six months in the year. No wholesome recreations are available, such as wireless sets, cinemas, theatres, playgrounds or other places of corporate amusement and exercise, where they can while away the idle hour in mutual enjoyment. This leads not only to lack of corporate life, but tempts the villager into mischief. Faction and litigation are the chief forms of amusement the villager has. The game of local politics is also absorbing to him. "Satan finds some mischief still for idle hands to do." In case the factious spirit is showing signs of waning and members of rival parties are found shaking hands, the leaders are always there to whip fresh life into villagers. The village munsif often takes the lead of one party against his old rival, the karnam. One or the other is a member of the local panchayat court or forest panchayat. It is considered fair play to down the enemy even in these courts of justice and communal grazing grounds. In this way, every incident in village life is magnified by interested persons into an affront to some one or other, and ill-feeling, spite and all the other ingredients which go to prevent real co-operation among villagers, are kept alive and periodically fanned into flame.

23. *Ceremonies.*—The landless Indian labourer who earns from four to eight annas a day during the cultivation season, actually spends about Rs. 100 on a single marriage.

The small landholder with 2 to 20 acres of wet land will spend anything from Rs. 200 to Rs. 500 on a marriage and the big landholders with 20 to 100 acres of wet land incur debts up to several thousand rupees on each marriage. None of these classes can, therefore, celebrate marriages and many other ceremonies without generally having to borrow; and, as cheap credit is not readily available, the money-lenders are generally the creditors and they, as we have seen, charge very heavy rates of interest. Thus, the cost of a marriage frequently binds an agriculturist in debt for life. Yet, he is compelled by custom and religion to spend such exorbitant sums. If he does not do so, he runs the risk of public ridicule and often of social ostracism.

The general impression is that most of the expenses incurred in marriages are sheer waste. This is not quite true. Much of the expenditure is incurred in purchasing jewellery and vessels. Much goes in the form of dowries paid to young men, who use this money for education and other useful purposes. Dowries are paid for women in some parts, and often a woman is economically worth all that is paid for her. The Kapu woman is a splendid specimen, stalwart and hardworking. She earns almost as much as her husband does. She works as hard as he does, if not harder in field and at home.

Among certain classes in the Coimbatore district, however, a marriage is not the occasion of pecuniary loss, but rather a means of replenishing the family coffer. All guests are expected to give the host presents in money; so much so indeed, that when a creditor presses a man for his dues, the man replies, "wait a short while when there is to be marriage in my house. I shall then be able to pay all I owe."

All said and done, however, expenses on ceremonies are far too heavy a burden. The agriculturist should be taught to cut them down to suit his means. This is the view of an experienced District Judge whom I consulted: "The root cause of the indebtedness of the agriculturist is, I am convinced, not the increase of facilities for borrowing owing to the improvement of the machinery for recovery of debts, but the growth of bad social habits resulting in reckless extravagance on marriages, funerals, and ceremonies generally. . . . The real way to tackle this question is, in my opinion, not to impair commercial morality and weaken the sanctity of contracts, but to educate the ryot into some small measure of financial prudence. If only agriculturists could be persuaded to control their expenditure on special functions with reference to their power to meet this expenditure, the trouble of agricultural indebtedness would largely disappear."

The recent economic depression I am told has had a splendid effect in bringing down marriage expenses to almost half of what they were in pre-depression days. The gold vessel has in many cases made way for the silver,

which in its turn has been superseded by brass. One-day marriages are becoming increasingly popular. It is to be hoped that this hard-earned lesson will not be forgotten in the future. I understand that in certain parts of Malabar a number of families arrange for a simultaneous celebration of their marriages, so that a single celebration will suffice. The expenses are clubbed and are therefore

most moderate per family. The Sarda Act has had a good effect in driving underground marriage of under-age girls. These secret marriages finished overnight cost very little compared with those spread over days of celebration, feasting and music.

24. *Over-population.*—I append below a statement showing figures relating to population, etc., in 1921 and 1931.

STATEMENT No. 9.—Statement showing figures relating to population, etc., in the Madras Province in 1921 and 1931.

Year.	Total population in millions.	Area in square miles.	Density per square mile.	Area not available for cultivation.	Cultivable waste other than fallow.	Current fallows.
(1)	(2)	(3)	(4)	(5)	(6)	(7)
				ACS.	ACS.	ACS.
1921	42.32	142,300	298	21,411,397	12,178,856	10,032,382
1931	46.74	142,300	329	20,515,113	13,099,483	10,704,152
		Net area sown during the year.	Holding (9)			Average holding per head of population.
		(8)	Wet.	Dry.	Total.	(10)
		ACS.	ACS	ACS.	ACS.	CENTS.
1921		33,012,244	5,163,321	20,963,663	26,127,484	62
1931		33,495,798	5,261,041	22,250,290	27,611,331	59

[Figures in columns (5) to (8) are for the years 1921-22 and 1931-32 respectively and those in column (9) are for faslis 1330 and 1340 respectively.]

While the population increased between 1921 and 1931 by 10.4 per cent, the net area sown rose by only 1.5 per cent and the total

holdings by 5.7 per cent. The following table exhibits densities per square mile in different provinces and countries.

STATEMENT No. 10.

Province (British territory) or country.	(Area 1,000 sq.m.)	Rank by area.	Population (Millions).	Rank by population.	Density per square mile.	Rank by density
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Burma	233.7	1	14.67	8	63	9
Madras	142.3	2	46.76	3	329	4
Bombay (excluding Aden).	123.6	3	21.80	6	176	6
United Provinces ..	106.3	4	48.41	2	455	2
Central Provinces and Berar	99.9	5	15.51	7	155	8
Punjab	99.0	6	23.58	5	238	5
Bihar and Orissa ..	83.05	7	37.68	4	454	3
Bengal	77.5	8	50.11	1	646	1
Assam	55.0	9	8.62	9	157	7
Belgium	11.7	..	8.13	..	692	..
England and Wales ..	58.3	..	39.95	..	685	..
Great Britain	88.7	..	44.89	..	505	..
Prussia	113.8	..	39.30	..	345	..
Italy	119.7	..	42.16	..	352	..
Poland	150.0	..	31.9	..	210	..
Sweden	173.1	..	6.10	..	35	..
France	212.9	..	41.0	..	195	..
Japan	260.8	..	85.10	..	330	..
Persia	628.0	..	10.0	..	20	..

Among Indian provinces, Madras occupies the second rank in area, the third in population and the fourth in density. Indian provinces, as has been often repeated, are mainly agricultural. They are not strongly industrialized and more than 70 per cent of the people are supported by agriculture. Yet their densities are high and only the strongly industrialized countries of the West exceed Madras in density. Madras now holds more people than Great Britain, the small lead of

the latter in 1921 having been converted into a Madras lead of nearly two millions. While Bengal increased by 7.3 per cent and the United Provinces by 6.7 per cent, Madras from 1921 to 1931 recorded a lead of 10.4 per cent, only exceeded by Bombay, the Punjab, Burma and the Central Provinces. The following statement taken from the latest census report exhibits density of population, water-supply and crops, for the districts in the presidency.

STATEMENT No. 11.

Name of division and district.	Density in 1931.	Percentage of total area.				Percentage of cultivable area.				Percentage of gross cultivated area under					
		Cultivable.	Net cultivated.	Net cultivated.	Double cropped.	Percentage of cultivated area irrigated.	Rainfall.	Paddy.	Cholam, cumbu and ragi.	Other food crops and pulses.	Groundnut.	Cotton.	Other crops.		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)		
PROVINCE	328	61.9	37.4	60.4	8.1	28.6	52.16	28.8	27.0	22.1	6.8	6.2	9.1		
Agency	89	37.8	14.4	38.1	0.8	6.7	54.60	39.7	21.1	17.9	0.1	0.2	21.0		
East Coast, North	386	68.0	42.7	62.8	12.5	40.0	38.88	39.1	28.8	20.7	2.4	2.8	11.7		
Ganjam	423	62.4	44.8	71.8	14.6	46.8	48.10	62.8	18.8	16.1	1.9	0.1	6.8		
Vizagapatam	534	62.4	38.7	62.1	22.7	38.5	37.53	28.2	29.5	22.4	4.0	1.1	14.2		
Godavari, East	660	70.2	50.3	71.7	20.5	50.4	41.40	50.3	15.1	19.0	0.7	0.7	16.9		
Godavari, West	518	83.7	51.5	61.6	15.1	67.6	42.00	67.9	9.8	11.4	0.5	0.1	10.8		
Kistna	354	80.2	53.0	66.1	8.6	44.3	38.50	44.7	23.6	13.8	1.7	4.0	12.2		
Guntur	354	76.5	56.4	73.8	10.8	15.5	32.01	16.2	27.0	31.0	4.7	5.2	15.9		
Nellore	187	58.4	24.7	42.3	4.9	42.9	37.25	28.4	42.5	20.6	0.5	2.6	5.4		
Deccan	153	67.7	44.2	65.3	2.8	8.9	23.88	3.7	35.4	31.3	11.9	13.7	4.0		
Cuddapah	160	54.5	28.1	51.5	4.3	23.5	27.19	9.2	42.9	19.7	18.0	6.4	8.8		
Kurnool	135	59.1	42.2	71.4	2.0	5.7	22.81	2.9	34.1	32.2	14.4	13.1	8.8		
Bangarapalle	153	79.9	63.6	79.4	0.2	0.9	21.70	0.1	46.0	12.7	8.6	27.1	5.5		
Bellary	170	82.5	64.6	78.2	1.6	2.9	21.70	1.3	37.4	29.6	7.0	21.8	2.9		
Bandur	86	13.7	11.0	80.4	..	1.6	28.87	0.1	63.4	26.3	2.0	1.6	6.6		
Anantapur	156	77.0	43.2	56.1	2.2	11.7	21.44	4.5	29.8	40.6	11.8	7.8	6.1		
East Coast, Central	417	57.6	36.3	68.0	11.5	34.6	39.60	23.9	34.0	19.3	13.1	4.1	5.6		
Madras *	818	..	..	..	..	..	51.63	..	..	..	..	..	..
Chingleput	535	56.5	39.4	60.8	17.4	67.1	47.97	70.2	11.8	7.1	4.6	..	6.8		
Chittoor	245	49.7	18.7	37.6	7.7	38.6	33.69	23.0	42.6	18.1	10.5	0.1	5.7		
North Arcot	488	54.8	36.9	67.2	14.3	38.0	36.88	30.9	22.1	17.8	24.2	0.2	5.8		
Salem	345	57.6	35.2	61.1	9.9	16.6	30.01	7.3	46.4	31.0	6.5	2.8	6.2		
Coimbatore	345	60.1	41.8	69.5	10.6	27.4	29.53	4.7	49.3	20.1	6.1	14.0	5.8		
South Arcot	583	68.8	50.8	73.0	12.5	40.4	47.51	35.4	17.9	14.8	27.1	0.1	4.7		
East Coast, South	463	72.6	47.1	64.8	7.0	41.1	35.68	33.8	24.8	20.4	4.5	10.1	6.4		
Tanjore	638	72.0	56.0	77.8	7.7	73.0	46.33	74.7	3.6	10.0	6.0	0.1	5.6		
Trichinopoly	443	78.4	47.4	60.5	6.2	26.7	31.91	19.0	42.7	22.3	7.2	3.4	5.4		
Pudukkottai	340	66.6	39.3	50.0	0.2	34.2	35.08	35.2	21.0	25.5	13.7	0.4	4.2		
Madura	447	68.5	40.1	58.5	8.2	40.2	33.18	22.3	29.1	27.4	4.5	11.7	5.0		
Ramanad	382	77.2	52.5	68.0	3.6	30.4	33.51	27.1	26.8	20.0	2.3	18.1	5.7		
Tinnevely	478	69.4	44.1	63.6	11.4	35.1	34.11	24.6	22.7	21.5	0.3	20.1	10.8		
West Coast	471	64.0	30.0	46.8	10.7	..	120.39	57.7	0.9	17.0	0.1	..	24.3		
Nilgiris	172	40.4	12.5	31.0	1.6	..	77.38	7.0	8.4	29.0	..	..	60.6
Malabar	610	68.2	38.9	57.1	10.8	..	128.26	51.3	0.8	19.1	0.1	..	28.7		
Anicang	6,766	91.7	89.9	98.0	..	..	..	..	..	..	..	..	100.0
South Kanara	341	68.9	21.4	33.5	12.0	..	156.57	77.9	0.9	11.0	..	..	10.2

* Not treated as an agricultural district; taken as not available for cultivation. No rain gauge. Columns 3-14 are average of years 1881-40, i.e., July 1921-July 1931.

The agency tracts are the most thinly populated. In Tanjore, Malabar and East Godavari, the density exceeds 600 per square mile. Vizagapatam, West Godavari, Chingleput and South Arcot have densities over 500 per square mile. Nellore, the Nilgiris and the four Ceded districts are thinly populated with densities under 200 per square mile. The remaining districts average between 200 and 500 per square mile. The increase in population is outstripping the increase in the area cultivated and, barring calamities and assuming the same rate of increase as in 1921-1931, the area of holding per individual is bound to dwindle steadily. There is much truth in Dr. Gilbert Slater's note of warning: "No policy, however wise, can lift the Indian population out of poverty as long as the conventions hold almost universally that every girl must be married young, must begin bearing children as soon, or almost as soon, as she is capable of doing so, and must continue to bear children till exempted by death or the cessation of fertility."

25. *Fragmentation of holdings.*—As Mr. G. Keatings observes, "To a great extent, no doubt, the uneconomic holding is the result of the Hindu law of inheritance. By this law

every male member of the family obtains a share in the ancestral property of the family not only on his father's death but at his own birth; and, like the Prodigal Son in the parable, he may demand a partition of the property at any time." This leads naturally to the question, what is an economic holding? The same author observes, "It is a holding which allows a man a chance of producing sufficient to support himself and his family in reasonable comfort, after paying his necessary expenses."

There are few such economic holdings in Madras. The cause is partly that the majority of the agriculturists have small holdings from 1 to 10 acres of land, and chiefly that these holdings, big or small, are not in one compact block, but scattered in small bits all over a village or often distributed amongst several villages.

The ultimate unit of land for revenue purposes is the subdivision or whole survey field; and seldom does a holding, consisting of several fields and subdivisions, form a single compact block. Ancestral property (inherited or obtained by partition), self-acquired property and so on form together holdings made up of

a large number of scattered bits. Subdivisions especially in wet lands are often extremely small and irregular in shape. The

following statement will illustrate clearly the small size of wet subdivisions and whole survey fields:—

STATEMENT No. 12.—Small wet holdings in Chingleput taluk.

Name of village.	Total extent of wet holding.	Total number of the fields including sub-division in the village in respect of wet holdings.	Average area of sub-divisions and whole fields.	Name of village.	Total extent of wet holding.	Total number of the fields including sub-division in the village in respect of wet holdings.	Average area of sub-divisions and whole fields.
	ACS.		CENTS.		ACS.		CENTS.
130. Hanumanthapuram ..	282-02	603	47	Siruseri	103-48	237	43
Dasarikuppam ..	106-32	333	32	Kandalur	100-93	283	36
Madayathur ..	278-35	624	45	Pulipakkam ..	203-29	533	38
Settipatturamaiyan-kuppam.	91-50	585	16	Natham	198-55	551	30
Kottamedu	307-48	948	32	Vallam	198-37	370	54
Kumili	120-67	732	16	Venbakkam ..	76-37	236	32
Edakundram ..	135-21	453	30	Olalur	558-42	1,075	52
Poondi	103-20	380	27	Nemmali	326-43	396	82
Royamangalam ..	185-51	399	46	Krishnankaranai ..	80-66	441	18
Otteri	191-46	464	41	Pattipulam ..	203-05	387	53
Pooiluppai	169-69	325	52	Saluvankuppam ..	153-44	970	16
Oragudam	527-13	1,027	51	Ninnakarai ..	342-98	980	35
Mullikolathur ..	311-96	1,083	29	Kattankolathur ..	295-67	509	58
Nalloor	200-39	1,057	19	Karanaipuducheri ..	370-66	927	40
Amaipakkam ..	69-34	116	60	Guduvancheri ..	176-11	409	43
Nathamkariacheri ..	674-34	1,749	39	Nandivaram ..	506-72	1,221	42
Meyyur	206-02	465	44	Unamancheri ..	460-48	974	47
Palur	2,522-05	5,079	50	Tirukaalur	373-30	1,542	24
Melamanapakkam ..	81-82	393	42	Kilakaranai ..	124-29	359	35
Chettipuniam ..	375-50	940	40	Kalvoy	482-00	1,521	32
				Settamangalam ..	73-37	403	18
				Total	12,349-79	31,879	39

Each subdivision and whole survey field, especially in wet areas, is carefully banded to differentiate it from its neighbours. The bunds, which may vary from a foot to two feet in breadth, are not generally cultivated except in Malabar and South Kanara, where coconut palms are grown on them. The more the fragmentation, the more wastage there is on bunds. Mr. Darling has summed up well the causes and evils of fragmentation and I cannot do better than quote from his book, *the Punjab Peasant*: "Small holdings are the result of large population and of laws of inheritance which prescribe that each son shall get an equal share of his father's land. That is bad enough, but what are we to say of a custom which requires that the few acres each son receives should be split up into as many fragments as there are different soils in the village, so that all may get an equal share of every kind of land—good, bad and indifferent? Yet this custom is well-nigh universal. . . . The more fertile the land the more it is split up, as fertility and population go together. Accordingly, the greater the population the greater the evil. . . . If things are better in Europe, it is because many countries have resolutely faced the problem and made it possible by law for the majority of a village or a commune to insist upon consolidation. But where this has not been done, the evil is still acute. In Eastern France, it has seriously affected the value of the land, and certain communes are literally dying. In one (Meaux), plots of less than a quarter of an acre form one-fifth of the whole cultivated area; in another (Chaigny), 5,447

acres are split up into 48,000 plots averaging one-tenth of an acre each; and in a third (Frepillon), the map of the village curiously resembles that of Bhojapur in Chapter XIII. In parts of Italy and Spain, conditions are no better, and in Sardinia, they are as bad as anything to be found in the Punjab; properties of from half a row to four rows of vine trees are the rule, and in some parts of the island the boundary hedges of cactus take up nearly half the cultivable area. The problem, therefore, is not peculiar to the Punjab, and everywhere the consequences are the same. Land is wasted in innumerable boundaries, and labour and time in going from plot to plot: rotations cannot be varied, nor can valuable crops be properly supervised; scientific cattle breeding is impossible, disputes are frequent, and enterprise is paralyzed. In short, all the evils of small holdings are aggravated a hundred-fold, and agricultural progress is impossible. Worst of all, and this is the experience of both Germany and Italy, where fragmentation is bad, the money-lender is strong, for fragmentation means a dwarf domestic economy and a hand-to-mouth existence. . . . The smallness of the average holding and its almost incredible fragmentation together constitute one of the basic causes of debt."

Before discussing remedies in Part II of this report, I should like to make the position of the small holder, the tenant and the labourer, a little clearer. A small landholder, it is recognized, does not usually possess an economic holding. It is too small in the first

place and much too scattered in the second. But a large proportion of small holders, who cannot possibly make a living out of their holdings alone, take other pieces of land in the vicinity on lease and so become tenants as well. Indeed, these small holders turn out to be the best tenants. They have vested interests in the locality and the cattle and implements they possess as landholders are used for cultivating the lands taken on lease. Small holders and tenants and members of their families often hire themselves out to

others as farm labourers, when they have not enough work to do on their own fields. Fragmentation of holdings, therefore, is not such a great evil as it would be if the practices detailed above were not in vogue. Yet, none the less, fragmentation is one of the basic causes of debt, and consolidation is urgently needed.

26. *Cattle mortality*.—The following statement compares livestock and agricultural implements in 1930 with those in 1935.

STATEMENT No. 13.—Number of livestock and agricultural machinery and implements in the Province of Madras as ascertained by a census held in January 1935 (Preliminary figures) compared with the Census figures in 1930.

	Totals for the Province.	
	1935.	1930.
Oxen—		
Males—		
1 Breeding bulls, i.e., entire male over three years kept or used for breeding purposes.	198,025	85,283
2 Working bullocks, i.e., bullocks and uncastrated males over three years kept for work only	6,139,124	
3 Bulls and bullocks over three years not in use for breeding or work	636,475	
4 Young stock—		
(a) Under one year	959,777	
(b) One to three years of age	1,277,708	
Females—		
1 Breeding cows, i.e., cows over three years kept for breeding or milk production	4,247,015	
2 Cows over three years used for work	1,126,084	
3 Cows over three years not in use for work or breeding purposes	569,858	
4 Young stock—		
(a) Under one year	1,218,263	
(b) One to three years of age	1,312,233	
Total, oxen	17,684,562	16,447,360
Buffaloes—		
Males—		
1 Breeding bulls, i.e., entire males over three years kept or used for breeding purposes.	148,441	
2 Working bullocks, i.e., bullocks and uncastrated males over three years kept for work only	1,105,313	
3 Bulls and bullocks over three years not in use for breeding or work	136,035	
4 Young stock—		
(a) Under one year	495,045	
(b) One to three years of age	407,047	
Females—		
1 Breeding cows, i.e., cows over three years kept for breeding or milk production	2,389,154	
2 Cows over three years used for work	269,645	
3 Cows over three years not in use for work or breeding purposes	224,158	
4 Young stock—		
(a) Under one year	848,505	
(b) One to three years of age	775,493	
Total, buffaloes	6,798,836	5,992,414
Sheep	11,905,724	12,864,343
Goats	6,748,132	7,406,018
1 Horses	32,761	24,761
2 Mares	14,172	111,954
3 Young stock colts and fillies—		
(a) Under one year	3,415	3,044
(b) One to three years of age	2,218	
Mules	2,852	765
Donkeys	145,095	131,104
Camels	30	14
Ploughs—		
(i) Wooden	4,293,812	4,444,753
(ii) Iron	44,879	31,097
Carts	1,186,102	1,235,099
Sugarcane crushers—		
(i) Worked by power	1,627	
(ii) Worked by bullocks	23,893	
Oil engine with pumps for irrigation purposes	3,821	
Electric pumps for tube wells	924	
Tractors	10,072	

B.P. Mis. No. 1345, dated 1st April 1935.

The number of total oxen and buffaloes has increased to some extent from 1930 to 1935. Breeding bulls have also increased. Sheep, goats and cows have decreased in numbers. Though wooden ploughs have grown fewer, the number of iron ploughs has shown

a gratifying increase. From this statement the following results have been arrived at:—

	1935.	1930.
Number of cattle per 100 of population	52.4	53
Number of cattle per 100 acres of net sown area	72	65

While the number of cattle per 100 of population is on the decrease, the number per 100 acres of sown area is increasing. When a pair of buffaloes is reckoned to be needed for ploughing about five acres of land, the cattle in this Presidency can hardly be said to be in excess of requirements, even if they are efficient. But efficiency is not a noticeable characteristic of the cattle in this country. The small stunted animals seen roaming about the country-side in search of fodder are not only incapable of doing hard and sustained work, but are short-lived and fall an easy prey to disease. Indiscriminate breeding, insufficient food and lack of segregation are responsible for the pooriness of the stock. "For anyone who has not lived in a primitive country, it is difficult to realize how much a peasant's life may depend upon his cattle. Without them his fields remain unploughed, store and bin stand empty, and food and drink lose half their savour; for in a vegetarian country what can be worse than to have neither milk, butter nor *ghi*?" Buffaloes and oxen are an indispensable part of the equipment of the cultivator. They are required not only for the plough, the cart and the water-lift, but also for the supplying of milk, butter, *ghi*, fuel and above all for the farmyard manure, which forms the bulk of that employed, especially for wet cultivation. There are signs that the

quality of cattle in this country is slowly deteriorating; but it is essential that such should improve. As the Royal Commission on Agriculture observe, "the process having gone so far, India having acquired so large a cattle population and the size of the animals in so many tracts having fallen so low, the task of reversing the process of deterioration and of improving the livestock of this country is now a gigantic one; but on improvement in its cattle depends to a degree that is little understood, the prosperity of its agriculture and the task must be faced."

A farmer must replace the cattle he loses. If he fails to do so, he has to sit at home and give up cultivation altogether. In 99 cases out of 100, a farmer has no money to replace the cattle he loses annually. He is compelled, therefore, to borrow at high rates of interest. The constantly recurring losses of cattle by drought, disease and destruction by wild animals is therefore an important cause of rural indebtedness.

Quite apart from the heavy mortality of cattle from natural causes, the death roll from contagious disease and by wild animals is very heavy indeed. It is gratifying, however, that deaths from contagious diseases are steadily decreasing, as will be seen from the following statement:—

STATEMENT No. 14.—Deaths of bovines from contagious diseases from 1929 to 1934.

Year.	Rinder-pest.	Anthrax.	Hæmorrhagic septicæmia.	Black-quarter.	Foot and mouth.	Other contagious diseases.	Total.
1929-30	106,046	8,329	7,516	6,755	5,354	24,523	158,523
1930-31	59,323	4,978	7,104	8,116	1,828	18,241	99,890
1931-32	28,412	4,734	6,145	5,358	1,753	10,232	56,634
1932-33	12,735	3,605	6,464	9,351	1,346	6,695	40,196
1933-34	5,209	3,612	7,536	7,550	1,590	6,277	31,774

Thus, according to the figures furnished by the Madras Civil Veterinary department, as many as 387,017 bovines died from contagious diseases between the years 1929-30 and 1933-34.

27. *Agricultural practices and the law of diminishing returns.*—Statements Nos. 7 and 8 show that the outturn per acre of the staple crop, paddy, is depressingly low in India, as compared with that in countries like Japan and Java. The same low outturn unfortunately applies to most of the other crops as well. While want of capital and the vagaries of nature account for much of this low outturn, gross slackness, conservatism in adhering to the old crude methods of cultivation and consequent lack of enterprise and initiative in attempting newer and more efficient methods of agriculture, must also be largely responsible for the comparatively meagre return from land.

Professor R. Mukerjee has summarized the crude methods adopted by the Indian farmer as follows: "Agriculture is carried on with the most primitive tools. The peasant maintains himself by crude and comparatively unprofitable agriculture at a low level of existence. He uses bad and infertile seeds and

works at great disadvantage owing to the inefficiency of his appliances. Darling observes: 'The plough that looks like a half-open penknife and just scratches the soil, the hand-sickle made more for a child than a man; the old-fashioned winnowing tray that woos the wind to sift the grain from the chaff; and the rude chopper with its waste folder, are undisturbed from their primitive but immemorial functions.' "The labourer to-day is a lazy truculent worker, as compared with his forefathers. He insists on having his morning sleep, and seldom comes to the field before 8 a.m. He cries off work earlier than before and works with less vigour and more indifference. He needs to be stirred into greater activity. Most important of all, the small, medium and big landholders, whether absentee landlords or not, should take more personal interest in their properties, and either by working on the land themselves or by closer supervision and greater enterprise, must ensure the maximum return from them. The slackness of ryots and labourers in certain districts like Ganjam is notorious. An officer of the Agricultural department described the activities of a certain class of Ganjam agriculturist in this way: "The ryot ploughs twice,

broadcasts paddy seed, covers the seed by means of a plough and goes home to laze away his time, prays to God and gets into debt. In November, he goes with his sickle to his field to see what has happened in the meanwhile. If he finds a crop, he harvests it. If not, he probably offers up another prayer."

I have had many representations made to me that the soil in many places, especially in deltaic areas, is getting exhausted and that in consequence the yield per acre, already the lowest in the world, is still steadily declining. The careful investigations of settlement officers and others do not support this view. If at all the law of diminishing returns is coming into operation in this country, the change is so slight as to be almost imperceptible. The old crude system of agriculture is to be thanked for having secured "practically constant productivity on the whole and in the long run." Even assuming that diminishing returns have already supervened, particularly in thickly populated and long cultivated areas, the adoption of better and more scientific methods of cultivation ought effectively to arrest their course.

28. *The lack of subsidiary occupations.*—According to Dr. Slater, taking the land of South India all round, there is agricultural work for the cultivator only for five-twelfths of his possible working time. To be on the safe side, we may assume on an average that the agriculturist finds work to do on his land for about six months in the year, leaving his six months free to do what he likes. Mental and physical inertia, lack of ambition and pride of caste and position, have all contributed to the fact that the agriculturist wastes most of this spare time in doing practically nothing towards earning a subsidiary income. Cottage industries, which are not likely to be drowned by competition from the products of factories and organized industry, are not wanting. Spinning, weaving, carpentry, pottery, fruit-growing, poultry-keeping, rearing of sheep and goats, bee-keeping, sericulture, market gardening and all those skilled and delicate handicrafts from gold, silver, brass, bell-metal, iron and wood which have made India so justly famous for delicacy and taste, suggest themselves off-hand. But still the waste of labour continues. In Japan, though half the land is under rice, two million peasants (the number is steadily growing) earn a substantial subsidiary income by the rearing of the silk-worm. In Bengal and the Punjab, sericulture is a useful supplementary occupation. In the Punjab, many raise agricultural capital by silk-worm rearing and use the money in taking on lease a plot grown with melons; with the money left over they lease a mango orchard and follow this up with oranges and other fruit. They, therefore, show a spirit of enterprise and are not sunk in a stupor of hopelessness combined with gross laziness. As Mr. Yeatts in his census report observes of vernacular equivalents to means of livelihood, "nearly all contain a reference to sitting which clearly plays a large part in the daily life of these fortunate persons." It

is no exaggeration to say that caste prejudice and pride of position offer grave obstacles to the development of cottage industries in this Province. It is considered *infra dig* for any one except a member of the potter caste to engage in pottery. None but members of carpenter family should make chairs and tables and agricultural implements; none but toddy-drawers should climb the coconut and palmyra. The members of the Nadar community in the Tinnevely district, who have been the official toddy-drawers, have recently struck work and declared that they are too superior to climb the palmyra and coconut palms. Members from other communities will not take up this work, as it is beneath their dignity to do so. So the toddy-drawing business is almost at a standstill in the Tinnevely district and men have actually to be imported from Malabar for this work.

29. *Taxation.*—From nearly all districts, individuals and often deputations have represented to me that much of the indebtedness of the agriculturist is due to the heavy incidence of the land revenue. This delicate and vexed question, therefore, cannot be shelved.

The people represent that—

(i) the principle of taking half the net profit as land revenue from big and small holders alike is unfair and has led in India to the highest land tax in the world.

(ii) payment in money is unfair and works a grave hardship in periods of depression, when the value of money is increased and the value of produce correspondingly diminished. It is argued that the present profits from agriculture are almost *nil* and that the land revenue and commuted money rents, taken by Government and zamindars respectively now represent far more than half the net profits from the land.

(iii) while land tax proper is no doubt not enhanced during the currency of the thirty-year settlements, there is no limit to the enhancement of water-rates and other miscellaneous items of land revenue during this period and such enhancements not only disorganize the whole economic machinery of rural economics, but drive the ryots affected into desperate straits.

The Government land revenue in a normal year does not generally exceed 25 per cent of the net profits. Commuted money rents in certain zamindaris however sometimes amount to as much as 50 per cent or more of the net profits of the tenants. The land tax on ryotwari land is therefore not a major cause of indebtedness in a normal year.

30. *General.*—I have attempted to analyse the general causes of indebtedness at some length. A clear knowledge of the causes of indebtedness is necessary before remedies can be suggested. These causes are so interwoven with each other that it is impossible to assess correctly the proportion of indebtedness due to each. Almost all of them have become aggravated by the great economic depression which swept over the world about five or six years ago.

I have given a few typical family budgets in Appendix IV*, taken from various reports, sent to me from officers of the Revenue department and the Settlement staff. Few agriculturists maintain accounts and so most of these budgets are based solely upon the statements of agriculturists. They may not therefore be quite reliable. Even allowing for under-statements and exaggeration, it will be seen how little is the income from agriculture, especially now in a time of depression. As many ryots are unable to make a living from the land alone, they are often obliged to borrow even for family expenses, unless they have some subsidiary occupation to augment their income from the land. The lives lived by the ordinary peasant are frugal and inexpensive generally, but the standard of living is undoubtedly gradually rising.

CHAPTER III.—THE ECONOMIC DEPRESSION.

31. *General.*—The periodic recurrence of trade cycles is well known; but the depression that took the whole world unawares about 1928 and still continues was one of the most severe that has ever been experienced. The causes which lead to such trade slumps are many and involved. Political factors have as much to do with them as economic forces. Currency problems are also inextricably involved. To analyse these intricate and interwoven causes will require a large volume. Such treatises are to be found in numbers, but it is not necessary to go over all this old ground, because we are here concerned not so much with the causes of the depression as with its effects. Our main task is to see how we can infuse vigour and hope into the Indian farmer and help him to tide over the very difficult times through which he is undoubtedly passing.

The direct result of an economic depression, given a fairly stable currency, is a marked fall in the value of all commodities and a pronounced rise in the value of money. A depression often suddenly comes like a thief in the dark, after a period of booming prices. The present depression, as is well known, has resulted in the downfall of many reputed banking and business concerns and hundreds of thousands of small traders and speculators have come to grief. The period of rising prices and trade optimism before the depression tempted people to speculate heavily in the hope of a continuation of such favourable prices; and, when the prices suddenly shot down, such speculators often crashed. Even individuals and companies, with keen business acumen and provided with all the latest knowledge of the trend of prices, markets, political events and so on, made mistakes in not foretelling the impending decline. How much more then was the farmer affected, with his poor business education, want of knowledge of world prices and the ignorance of the trend of market fluctuations. Before the onset of the depression, he found that the prices of his crops were excellent and continued to rise. So he speculated, often wildly, upon

land, borrowing at heavy rates to buy more land. Suddenly came the depression. He found to his bewilderment that his crops were fetching less and less in terms of money. His commitments to Government and others in terms of money became harder and harder to meet, as he was obliged to sell more and yet more of his crops to get the money required. The value of land declined steeply and there were no purchasers even at low current market prices. To add to his difficulties, cheap rice from foreign countries was flooding India and depressing the price of local rice still further. Is it any wonder then that the Indian agriculturist to-day is so heavily involved in debt; obliged to pay in money to Government, zamindars and others the same as he had to do before the depression and forced, in order to meet this demand in money, to dispose of about twice the amount of his crop as before; unable to dispose of his land at even half the price it easily fetched in predepression days; unable, with credit shortened, to borrow enough even for current family and cultivation expenses; compelled, therefore, to part with much of his hoard of jewels and ornaments in order to get ready money; and, hence, left more at the mercy of unscrupulous money-lenders and middlemen than before.

The rupee is linked to the pound sterling. That is to say the currency of a country like India, which depends mainly upon agriculture for its welfare, is linked with the currency of a country like England, which depends for its prosperity, not upon its agriculture, but mainly upon its banking and trade. The pound sterling, gold standard or no gold standard, is about the most stable currency in the world to-day. One has only to see the way, in which the *franc*, the *mark* and other continental currencies are fluctuating to realize the essential soundness and stability of the pound. No doubt, India has benefited enormously by having the rupee linked to such a sound currency unit; her borrowing power is high, and she finds it all the easier to meet her commitments to the mother country. But the great difference between the value of money and the value of commodities, especially of food and commercial crops, has undoubtedly been a hardship on the Indian agriculturist. Some countries have solved the problem by a judicious inflation of currency, so that the great gap caused by the depression between the value of money and of commodities has been bridged to some extent. Sir George Schuster has, however, laid down that the problem of currency is outside the scope of remedial measures that Local Governments may contemplate in consultation with the Central Government for the amelioration of the conditions of the agriculturists. The Indian agriculturist, at present, is mainly concerned with the production of food crops like rice and wheat, in which we must not forget to include dry food crops like ragi, cholam, and cumbu. The main argument in the past for allowing rice to come into this country from

* Not printed.

abroad, unchecked by effective protective tariffs, is that India does not produce enough food crops to feed her own people and must therefore import the deficit. I am led to wonder whether it has ever struck anyone, that one of the chief reasons why outturns in India are so low, is because the demand is limited and prices are unstable. What can be the use of urging the ryot to adopt improved methods of cultivation in order to increase his output, if at the same time the inevitable argument is thrown at him that he must have imported rice as well? How is it possible for the output to be increased, and where is this increased output to find a market, when rice is allowed to come into this country to depress prices? The recent levy of a small import duty on broken rice will undoubtedly afford much relief; but it may not be high enough or comprehensive enough, I submit, to prevent paddy, whole rice and even broken rice from being imported in sufficient quantity to depress local prices seriously. Many of the other countries have effectively barricaded themselves against the import of food crops. We need an effective tariff barrier against the import of rice and paddy, like that which France imposed in 1934 as follows:—

Goods of Indian origin.	General rate of import duty—France per 100 kilograms.	
	Former. Now.	
	Former.	Now.
Rice—		
In the straw	4.20	16.80
Broken rice	8.40	30.00
Whole rice, flour and grits ..	34.40	137.60

It is only by properly checking foreign imports of paddy and wheat and such like products that a real stimulus will be given to Indian agriculture in the matter of increased outturns. What is going to happen to the vast new wet area that the Cauvery-Mettur Project is going to open up? Where is the paddy that will be grown thereon to go to, and what will be its price? The whole or even a major portion of this new wet area can never grow sugarcane. The water-rate for this *duffasal* crop for one thing is likely to be a heavy burden, and sugarcane cultivation is too expensive for the average small farmer. Any deficit in food for India in rice can always be made up by the consumption

of grains grown on dry lands. The great influx in the last two years of rice from Burma and abroad has had much to do with the steady decline in the areas cropped under cholam, ragi and cumbu as seen from statement No. 6. The poorer classes of ryots and labourers, who once mainly ate the healthy cholam, ragi and cumbu, have now to a noticeable extent gone over to the cheap broken rice from abroad, which is not only throwing dry lands out of cultivation but is less nutritious and certainly wanting in *vitamin* content. I am convinced that the main reason why India fails to produce enough food crop for her own consumption is because prices of food crops are not only constantly fluctuating, but are also on an average not high enough to stimulate her to more labour and greater enterprise. The instability of prices of food crops in India can be effectively remedied, and prices can be sufficiently raised, by imposing proper tariff barriers against foreign imports. The rapidly growing Indian population can easily absorb the increased output that can be achieved thereby. There can be little hope of success in adopting a policy of putting the cart before the horse. If a proper market at attractive prices is first assured then increased production will inevitably follow, and the Indian farmer will respond with enthusiasm to agricultural education. But no amount of propaganda to adopt advanced scientific methods of cultivation will, I think, be of use if the farmer rightly feels that he cannot get stable and attractive prices for his crops. The *free-trader* economist, no doubt, has sound reasons for permitting the natural forces of supply, demand and private competition to adjust themselves; but I submit that his theories may not be so convincing when he attempts to apply them to food crops grown in a country predominantly agricultural, where almost the whole of the supply is absorbed by demand from within the country itself.

32. *Imports and exports.*—India in the past exported much paddy and rice to other countries. Now her exports have dwindled and her imports increased. The following statement exhibits the imports and exports of paddy and rice in the last five years:—

STATEMENT No. 15.—Import and export of paddy and rice—in tons—Sea-borne trade.

	1929-30.				1930-31.				1931-32.			
	Imports.		Exports.		Imports.		Exports.		Imports.		Exports.	
	Rice.	Paddy.	Rice.	Paddy.	Rice.	Paddy.	Rice.	Paddy.	Rice.	Paddy.	Rice.	Paddy.
Bengal	5,635	725	2,298,229	27,618	7,445	1,571	2,253,784	25,445	17,931	9,042		
Bombay	294	..	120,040	6	86	..	118,885	51	44	..		
Madras	88	..	16,393	6	2,384	1	13,897	5	580	..		
Sind	5,184	710	93,852	4,265	3,065	1,560	101,711	4,368	17,301	9,042		
Bihar and Orissa .. .. .	..	..	42,862	..	2	..	43,633	..	..	..
Burma .. .. .	..	..	92	..	..	..	259	..	..	..
	69	15	2,024,900	23,335	1,008	10	1,975,393	21,021	6	..		
	1931-32—cont.				1932-33.				1933-34.			
	Exports.		Imports.		Exports.		Imports.		Exports.		Imports.	
	Rice.	Paddy.	Rice.	Paddy.	Rice.	Paddy.	Rice.	Paddy.	Rice.	Paddy.	Rice.	Paddy.
Bengal	2,301,415	70,291	35,510	11	1,828,196	58,844	84,024	4,381	1,732,539	11,384		
Bombay	123,185	14	10	..	120,795	2,161	731	..	107,657	6		
Madras	13,312	2	..	..	11,349	2	5,388	..	12,674	3		
Sind	61,175	2,355	35,418	10	64,894	2,023	77,665	4,381	78,262	1,082		
Bihar and Orissa	37,848	..	..	..	28,339	..	2	..	17,560	..		
Burma	50	..	..	..	..	..	..	..	..	..
	2,065,816	67,920	19	1	1,602,339	64,653	40	..	1,510,896	10,298		

(Extract from the Annual Statement of the Sea-borne trade of British India with the British Empire and foreign countries for the year ending 31st March 1934.)

per 100. and areca at Rs. 5 per 1,000. A ryot who had to pay an assessment of Rs. 50 annually had to sell only 5 *muras* during the above year, but now he has to sell 17 *muras* for paying the same amount. The difference in the number of *muras* to be sold is striking and the ryot has barely anything for his own consumption." This statement of the bare facts as found in South Kanara, applies equally to all the other districts.

It is only in the last few months that the prices are at last showing an upward trend. It still remains to be seen whether the change is temporary or the definite beginning of the end of the depression. In either case, it will take many years for the agriculturist to recover from the devastating effects of such a serious and prolonged slump. Professor George O'Brien in his book entitled *Agricultural Economics* gives an excellent survey of the effects of depression on the farmer in general. His remarks apply with even greater force to the Indian agriculturist:—

"It may not unnaturally be asked why so much emphasis has been laid on the effect of a fall of prices on the farmer and so little on the effects of a rise. Do not his differential gains in the rise compensate him for his differential losses in the fall? It is true that the effects of the slump are rendered less onerous by the preceding boom than they would be if no boom had occurred, indeed, the savings put aside during the good years may stave off actual bankruptcy during the bad. But apart from this, the two movements do little in the way of mutual compensation. For one thing, the turn in the tide of prices probably overtakes the farmer unawares. Farmers live remote from markets and market news, and are not so sensitive to changes in market conditions as producers in other industries. Intoxicated by the optimism of good prices they are tempted to go on increasing their output even after the peak in the movement has been reached, trusting that any set back which they observe is but a temporary hesitation pending a further rise. Their losses in the fall are thus intensified, and probably, more than the extra profits made in the rise are absorbed in keeping them out of bankruptcy. Moreover, adjustments are made more rapidly in periods of expansion than of contraction. Many more or less permanent charges may have been incurred under the exhilaration of high prices which afterwards grow heavier owing to the combined effect of lower profits and the appreciation in the value of the currency unit in which the charges have to be paid. Especially distressing is the lot of those who have borrowed

money in order to purchase land during the period of high prices. Among such farmers' bankruptcies and forced sales become the order of the day. Finally, the psychological effects of the slump are serious, and far from transitory. Falling prices undermine confidence. In the absence of confidence farming deteriorates, and the farmer is slow to recognize signs of improvement when prices once more show an upward tendency. The cumulative effect of all these factors tends to prolong the harmful consequences of a depression long after the causes which brought it about have ceased to operate. . . . It is impossible to doubt that the net effect of the cycle is a loss to the agricultural industry. . . . Every student of agricultural economics is agreed that the gains derived during the boom do not in fact compensate for the losses suffered during the slump, and the farmer has therefore a more pressing and urgent need for some policy of price stabilization than any other member of the society. 'The agriculturist,' states the final report of the World Economic Conference, 'should find his just remuneration, not through speculation, but in the regularity of prices enabling him to reckon on a legitimate return equivalent to that accorded to other producers.' Unfortunately, the formulation and execution of such a policy is outside the power of the farming classes even if they were fully organized for joint action. In this matter their fortune lies in the power of the bankers and statesmen who control the purchasing power of money."

34. *Some statistics from the Registration department.*—I requested the Inspector-General of Registration to furnish me with some figures for the whole Presidency. He found it impossible without additional staff to collect, tabulate and consolidate the particulars I required from the millions of documents and entries in registers in all the Sub-Registrars' offices. He very kindly agreed, however, to furnish me with the information I required for two typical villages in each of the districts in this Presidency, except Malabar and South Kanara. Of course, the registration district of Madras was also to be excluded. Statements 17-a to 17-d are those sent by the Inspector-General of Registration at my request and they furnish useful information of the trend of events from 1930 to 1934 so far as the agriculturist is concerned. I suggest that such tabular statements for the whole Presidency should be prepared and published once in five years so that the condition of the agriculturist may be watched in future.

35. *Extent of sales and mortgages*—

STATEMENT 17 (a).—Statement showing the extent of lands in acres sold and mortgaged in the Presidency of Madras taking two typical villages for each district excepting the districts of North and South Malabar and South Kanara during the years 1930 to 1934.

Years.	Total changed hands.			Net sold by agriculturists to non-agriculturists.			Net area sold.			Net mortgaged by agriculturists to non-agriculturists.		
	Dry and garden.	Wet.	Total.	Dry and garden.	Wet.	Total.	Civil courts.	By private sales.	Total.	Dry and garden.	Wet.	Total.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
1930 ..	3,906	1,229	5,125	505	267	772	181	4,944	5,125	2,652	691	3,343
1931 ..	3,858	1,682	5,540	1,033	335	1,368	203	5,337	5,540	1,300	344	2,644
1932 ..	3,681	2,098	5,729	512	405	917	354	5,378	5,732	1,762	543	2,605
1933 ..	4,934	1,735	6,669	1,049	357	1,406	489	6,179	6,668	1,669	914	2,583
1934 ..	4,095	1,899	5,994	748	333	1,081	496	5,497	5,992	1,501	796	
								+ 2	+ 2			

The definition of the word *agriculturist* proved rather a stumbling block in preparing these figures. So far as this statement is concerned, I believe that all those, who noted their occupation as *agriculture* or *cultivation*, were termed *agriculturists*; and non-agriculturists were those who gave other occupations as their means of livelihood. There being no distinct division between cultivating and non-cultivating classes, it was impossible to separate them. So among agriculturists in this statement, we shall find both owner cultivators and absentee landlords like agriculturist money-lenders. Among non-agriculturists also will probably be found absentee landlords, whose main support is income from some source other than land, Government servants, lawyers, professional money-lenders, traders, merchants and so on. There has been a steady increase from 1930 to 1933 in the total area that has changed hands. The area sold to non-agriculturists has fluctuated a bit, but has definitely risen between 1930 and 1934. Sales through civil courts, though increasing, form much less than 10 per cent of the total sales. The area mortgaged by agriculturists to non-agriculturists however has dropped steadily from 1930 to 1934, which clearly indicates a steady decline in fresh borrowings and a shortening of credit. The Government have asked me, in question No. 6 of my terms of reference, to what extent property has been mortgaged by agriculturists as security for debts. I am not able to furnish the extent; but the value of mortgages in the last ten years is given in statement No. 19. I have also been asked how much land has changed hands in the last four years and how much thereof

has gone to the non-cultivating classes. I have already indicated the difficulty of differentiating between cultivating and non-cultivating classes in the Presidency. We may assume that no non-agriculturist cultivates his land and many agriculturists also are non-cultivators. This is particularly so for big agriculturist landholders, especially the money-lenders among them, all of whom probably come under the rather vague term *agriculturist*. There are 21,631 ryotwari villages in the twenty-five districts of the Presidency. The average number of ryotwari villages per district may be taken to be 865. The total acreage that changed hands in the four years from 1931 to 1934 according to statement No. 17-a is 23,932 acres. This figure is for two villages for each of the districts except Malabar and South Kanara. So the total ryotwari area, that has changed hands from 1931 to 1934 for the Presidency, except Malabar and South Kanara, may roughly be calculated as $\frac{23,932 \times 865}{2}$ or 10,351,000 acres. Of the area of 23,932 acres, which changed hands from 1931 to 1934 according to the previous statement, 4,772 acres or about 20 per cent went to non-agriculturists. So, from 1931 to 1934, the area of ryotwari land which went to non-agriculturists, excepting that in Malabar and South Kanara, is 2,070,000 acres. Of the 10,362,000 acres of ryotwari land which changed hands during these years, I should say a very large proportion went to big absentee landlords particularly agriculturist money-lenders. This shows that many small and medium landholders were and are being rendered landless and destitute because of foreclosure on their debts.

36. Rates of interest on mortgages and bonds—

STATEMENT No. 17 (b).—Statement showing mortgages without possession and bonds registered in 1930—1934 classified according to rates of interest charged in the Madras Presidency, taking two typical villages for each district.

Serial number.	Years.	6 per cent and less.						Above 6 and not more than 9 per cent.						Above 9 and not more than 12 per cent.									
		Number in which the amount of loan is						Number in which the amount of loan is						Number in which the amount of loan is									
		Ra. 25 and less.	Between 25 and 100.	Between 101 and 500.	Between 501 to 1000.	Above 1000.	Total number of transactions.	Total amount.	Ra. 25 and less.	Between 25 and 100.	Between 101 and 500.	Between 501 and 1000.	Above 1000.	Total number of transactions.	Total amount.	Ra. 25 and less.	Between 25 and 100.	Between 101 and 500.	Between 501 and 1000.	Above 1000.	Total number of transactions.	Total amount.	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)	(23)	
STATEMENT II—MORTGAGES WITHOUT POSSESSION.																							
1	1930	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
2	1931	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
3	1932	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
4	1933	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
5	1934	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
6	1930	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
7	1931	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
8	1932	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
9	1933	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
10	1934	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
STATEMENT III—BONDS.																							
1	1930	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
2	1931	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
3	1932	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
4	1933	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
5	1934	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..

Serial number.	Years.	Above 12 and not more than 24 per cent.						Above 24 per cent.						Other cases where interest is payable in grain or not as certain as is.									
		Number in which the amount of loan is						Number in which the amount of loan is						Number in which the amount of loan is									
		Ra. 25 and less.	Between 25 and 100.	Between 101 and 500.	Between 501 and 1000.	Above 1000.	Total number of transactions.	Total amount.	Ra. 25 and less.	Between 25 and 100.	Between 101 and 500.	Between 501 and 1000.	Above 1000.	Total number of transactions.	Total amount.	Ra. 25 and less.	Between 25 and 100.	Between 100 to 500.	Between 501 to 1000.	Above 1000.	Total number of transactions.	Total amount.	
(24)	(25)	(26)	(27)	(28)	(29)	(30)	(31)	(32)	(33)	(34)	(35)	(36)	(37)	(38)	(39)	(40)	(41)	(42)	(43)	(44)			
STATEMENT II—MORTGAGES WITHOUT POSSESSION—cont.																							
1	1930	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
2	1931	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
3	1932	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
4	1933	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
5	1934	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
STATEMENT III—BONDS—cont.																							
1	1930	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
2	1931	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
3	1932	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
4	1933	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
5	1934	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..

As regards mortgages without possession, the most common rates of interest range from 9 to 12 per cent. There are some transactions, where interest between 6 and 9 per cent is charged and also some where the interest is between 12 and 18 per cent. Cases, where interest below 6 per cent and above 24 per cent are charged, are rare. The figures relating to bonds are not many. It is necessary to remember that these are the recorded amounts of

ordinary interest. The much heavier penal rates generally are enforced, as borrowers seldom repay within the period stipulated. The common practice of deducting at the outset a sum for interest and only paying the balance to the borrower must not be lost sight of.

37. Purposes of borrowing—

STATEMENT No. 17 (c).—Statement showing the different purposes for which lands were sold, mortgaged without possession, mortgaged with possession and loans were obtained on bonds during 1930–1934 in the Madras Presidency taking two typical villages for each district excepting the districts of North and South Malabar and South Kanara.

Year.	Sold or borrowed for															
	Agricultural purposes.				Trade purposes.				Payment of kist.				Marriage expenses.			
	Sales.	Mortgages without possession.	Mortgages with possession.	Bonds.	Sales.	Mortgages without possession.	Mortgages with possession.	Bonds.	Sales.	Mortgages without possession.	Mortgages with possession.	Bonds.	Sales.	Mortgages without possession.	Mortgages with possession.	Bonds.
(1)	2 (a)	2 (b)	2 (c)	2 (d)	3 (a)	3 (b)	3 (c)	3 (d)	4 (a)	4 (b)	4 (c)	4 (d)	5 (a)	5 (b)	5 (c)	5 (d)
1930	72,705	49,614	15,491	1,470	21,413	27,268	6,534	13,000	5,424	2,526	50	80	24,748	28,154	9,888	..
1931	22,741	28,615	1,971	520	5,314	24,878	1,219	40,090	1,380	1,527	50	..	10,109	12,595	4,375	904
1932	43,941	43,533	8,143	150	16,643	15,068	1,514	22,216	6,091	934	180	..	11,966	20,836	5,902	150
1933	46,290	25,198	2,776	1,100	17,602	8,548	2,008	16,675	8,803	2,407	542	100	11,940	15,892	8,400	200
1934	86,216	23,956	13,493	..	11,473	11,965	1,441	14,528	3,539	475	590	..	22,805	23,532	4,035	50

Year.	Sold or borrowed for—cont.															
	Discharging old debts.				Other purposes.				Purposes not as ascertainable.				Total amount.			
	Sales.	Mortgages without possession.	Mortgages with possession.	Bonds.	Sales.	Mortgages without possession.	Mortgages with possession.	Bonds.	Sales.	Mortgages without possession.	Mortgages with possession.	Bonds.	Sales.	Mortgages without possession.	Mortgages with possession.	Bonds.
6 (a)	6 (b)	6 (c)	6 (d)	7 (a)	7 (b)	7 (c)	7 (d)	8 (a)	8 (b)	8 (c)	8 (d)	9 (a)	9 (b)	9 (c)	9 (d)	
1930	1,067,458	639,177	177,807	8,441	138,475	69,580	18,697	79,403	235,274	74,437	16,502	29,230	1,565,487	885,706	239,909	131,634
1931	1,334,426	764,641	115,914	5,140	70,306	36,420	11,440	37,732	208,252	170,728	9,150	775	1,703,528	890,399	144,125	85,221
1932	1,529,802	462,417	154,314	147,234	92,083	56,201	15,112	25,565	195,002	60,498	138,752	3,280	1,894,101	666,592	318,917	198,595
1933	1,354,389	500,001	133,273	6,965	61,546	92,076	16,753	23,805	194,726	50,661	10,740	7,765	1,695,356	695,373	174,492	56,610
1934	116,235	683,309	150,070	3,281	72,316	52,411	8,373	14,315	179,168	47,374	5,609	2,500	1,477,370	643,022	182,576	34,674

NOTE.—The figures in this statement represent the number of cases.

Lands have been sold or mortgaged mainly to discharge old debts. This shows that loans are seldom discharged but are generally renewed. *Agricultural purposes* and *marriage expenses* are responsible for a fair proportion

of sales and mortgages. *Purposes not ascertainable* and *other purposes* account for a good proportion of sales and mortgages. Sales and mortgages for *payment of kist* are trivial.

38. *Periods of mortgage and bonds—*

STATEMENT No. 17 (d).—Statement showing mortgages without possession, mortgages with possession and bonds registered in 1930–1934 classified according to periods of loan in the Madras Presidency taking two typical villages for each district excepting North and South Malabar and South Kanara.

Years.	One year and less—Number in which the amount of loan is							Above one year but not more than three years—Number in which the amount of loan is						
	Rs. 25 and less.	Between Rs. 26 and Rs. 100.	Between Rs. 101 and Rs. 500.	Between Rs. 501 and Rs. 1,000.	Above Rs. 1,000.	Total number transactions.	Total amount.	Rs. 25 and less.	Between Rs. 26 and Rs. 100.	Between Rs. 101 and Rs. 500.	Between Rs. 501 and Rs. 1,000.	Above Rs. 1,000.	Total number transactions.	Total amount.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)

STATEMENT VIII.—Statement of mortgages without possession.

1930	18	109	157	61	24	379	186,602	1	57	147	36	20	268	129,668
1931	10	110	151	43	24	338	151,166	1	59	150	37	24	271	144,403
1932	10	77	136	40	21	290	118,296	1	52	136	42	25	255	150,612
1933	11	79	131	20	15	268	158,476	1	99	131	35	15	241	117,743
1934	4	99	123	24	7	257	72,260	0	56	132	25	20	209	104,064

STATEMENT IX.—Statement of mortgages with possession.

1930	1	8	10	4	1	24	2,858	3	30	71	23	16	139	77,374
1931	1	8	8	2	1	16	3,995	5	40	67	23	13	143	57,568
1932	4	8	8	2	2	23	13,887	4	48	84	37	13	166	211,437
1933	2	7	11	2	1	19	4,118	4	46	77	25	10	164	60,007
1934	2	9	8	2	1	21	4,286	5	43	56	16	12	162	63,854

STATEMENT X.—Statement of bonds.

1930	16	10	2	1	31	6,858	1	5	1	7	1,510
1931	14	18	3	1	36	5,172	1	3	1	6	1,826
1932	21	10	1	1	32	4,580	1	4	1	7	910
1933	16	9	1	1	25	4,000	5	7	1	17	1,030
1934	12	3	1	1	17	7,688	1	4	1	6	786

Years.	Above three years—Number in which the amount of loan is							No term—Number in which the amount of loan is						
	Rs. 25 and less.	Between Rs. 26 and Rs. 100.	Between Rs. 101 and Rs. 500.	Between Rs. 501 and Rs. 1,000.	Above Rs. 1,000.	Total number transactions.	Total amount.	Rs. 25 and less.	Between Rs. 26 and Rs. 100.	Between Rs. 101 and Rs. 500.	Between Rs. 501 and Rs. 1,000.	Above Rs. 1,000.	Total number transactions.	Total amount.
(16)	(17)	(18)	(19)	(20)	(21)	(22)	(23)	(24)	(25)	(26)	(27)	(28)	(29)	

STATEMENT VIII.—Statement of mortgages without possession—cont.

1930	4	43	143	57	32	279	189,555	7	143	249	99	71	569	355,116
1931	1	14	89	55	42	195	210,789	12	127	244	84	79	546	377,227
1932	15	15	92	43	32	182	175,400	9	143	254	100	54	560	331,444
1933	32	122	46	46	46	248	221,246	9	172	197	64	36	478	225,398
1934	19	133	35	48	235	213,180	15	146	208	71	28	467	193,753	

STATEMENT IX.—Statement of mortgages with possession—cont.

1930	1	29	48	19	18	115	91,487	1	22	25	11	2	61	22,242
1931	4	13	34	33	22	111	80,912	1	17	33	5	8	62	22,555
1932	2	13	69	22	15	120	74,917	4	30	33	7	11	85	33,194
1933	4	43	43	23	17	135	77,378	5	24	45	4	7	85	28,478
1934	1	36	64	20	15	135	76,927	6	25	25	5	6	69	38,663

STATEMENT X.—Statement of bonds—cont.

1930	1	3	1	1	1	50	1	12	12	7	26	58	123,361
1931	1	3	1	1	4	2,032	15	5	6	17	43	74,176	
1932	1	1	2	3	3	143,100	7	14	3	14	37	49,905	
1933	4	5	1	9	9	1,310	4	16	18	10	43	51,670	
1934	4	4	1	9	9	2,610	7	6	2	7	22	23,556	

As regards mortgages with and without possession, the most popular periods of loan seem to be the *no term* ones, while those *above three years* and *between one and three years* are second and third in demand. There are, however, quite a number of loans on mortgages for periods below one year. Most of the bonds relate to no-term ones.

CHAPTER IV—VOLUME AND DISTRIBUTION OF AGRICULTURAL INDEBTEDNESS.

39. *Results of investigation by officers of the Revenue department.*—As no special investigators under me were appointed for detailed enquiries in selected villages, I

requested District Collectors kindly to depute Assistant Collectors and selected Revenue Divisional Officers, Tahsildars, and Deputy Tahsildars to hold detailed enquiries in one village each on a plan outlined by me. The reports from these officers for 141 selected villages in this Presidency will be found in *Appendix II. Actually, reports relating to about 160 villages were received, but after careful scrutiny I was obliged to reject about 20 reports for various reasons,—villages not being typical, irreconcilable figures, omissions and so on. The investigators were requested to attend personally to the enquiry and to approach villagers with tact and sympathy in order to win their confidence. I

* Not printed.

submit however that the figures furnished in these reports cannot be quite accurate, considering that most of the important columns had to be filled up from oral evidence. The villager is notoriously suspicious of those, especially officials, who wish for information from him and seldom gives a plain and accurate statement of his affairs. If he feels that his interlocutor is there to enhance his taxes, he will magnify his liabilities and underestimate his assets and profits. If he feels that his questioner has come to force him to pay off what he owes, he will become secretive about his liabilities to his creditors. It is difficult to blame the ryot. After all, it is asking much of him to make all his private affairs public. Hence, all such information should be accepted with the greatest caution and reserve. I append below a tabular statement compiled from the results of the enquires made in the 141 villages referred to above. It

will be noticed from the statement that several columns do not tally. For instance, the figures furnished in column 2-a seldom correspond with the total of the figures furnished in columns 2-e to 2-i. The differences can probably be explained by the temporary or permanent absence from villages of ryots and labourers and also by the fact that *farm servants* do not by any means include all farm labourers. The figures in column 8 do not often correspond with the totals of the figures in columns 9, 10 and 11. The discrepancy is probably due to the fact that a number of absentee agriculturists, who own lands in the village have been included either in column 8 or in one of the columns 9 to 11. The absentee landlord, who owns land in one or more villages, has proved a great stumbling block to the investigators who did not, I imagine, all follow the same principles in compiling the figures.

STATEMENT NO. 18.—Results of investigations by Assistant Collectors, Revenue Divisional Officers, Tahsildars and Deputy Tahsildars in 141 selected villages in the Madras Presidency in 1935.

Districts and number of villages.	Population.										Number of regular money-lenders in the village whose profession is money-lending.	Number of agriculturists who are money-lenders.	Number of registered holders of land who are free from debt.	Number of tenants free from debt.	Number of farm labourers free from debt.	Number indebted.	Number of registered land-holders indebted.	Number of tenants indebted.	Number of farm labourers indebted.	Debt per head of population.	
	Men.	Women.	Children.	Families.	Number holding land on ryotwari and inam tenure on single pattas.	Number holding land on ryotwari and inam tenure on joint pattas.	Number of tenants on long-term leases including zamindari tenants.	Number of tenants-at-will.	Number of farm servants.	Population.											
(1)	2 (a)	2 (b)	2 (c)	2 (d)	2 (e)	2 (f)	2 (g)	2 (h)	2 (i)	2 (j)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	
Ganjam	4	1,507	2,355	2,629	1,566	679	1,100	3	330	188	6,551	1	64	226	103	109	1,020	771	102	903	24
Vizagapatam	6	5,534	4,586	3,429	2,860	547	487	341	167	757	13,549	6	51	236	206	325	2,231	788	367	476	20
East Godavari	1	2,060	2,099	1,034	1,603	174	201	..	55	22	5,193	7	17	179	31	8	234	196	24	14	28
West Godavari	7	11,027	10,987	5,041	5,530	2,412	1,521	141	683	2,831	27,055	2	110	881	221	916	3,732	2,392	823	1,585	64
Kistna	3	4,259	3,934	3,933	2,491	904	658	28	305	734	12,126	20	44	89	5	407	2,892	1,042	243	442	55
Guntur	5	9,460	8,750	6,560	5,318	2,320	4,734	11	901	1,773	24,770	10	66	446	473	706	5,447	4,684	863	1,007	52
Nellore	2	5,059	5,106	3,565	2,917	450	435	86	60	225	13,730	58	39	52	15	1,500	508	183	224	20	
Total ..	28	38,968	37,817	28,191	22,284	7,486	9,149	610	2,701	5,530	102,974	104	420	2,059	1,054	2,565	17,056	10,822	2,107	6,061	44
Cuddapah	2	3,022	3,154	1,886	1,688	865	584	225	25	370	8,062	10	65	186	29	175	779	687	217	245	24
Anantapur	7	10,302	10,290	2,638	5,530	2,089	1,377	305	1,453	1,119	23,580	92	137	364	551	342	2,250	2,619	1,682	783	24
Bollary	2	589	539	657	265	181	44	..	154	8	1,785	..	9	55	66	97	158	88	88	57	60
Kurnool	16	13,902	13,510	8,783	6,739	3,207	6,187	229	973	1,403	36,195	36	222	1,049	117	491	6,235	5,734	1,039	949	96
Chittoor	2	2,661	2,542	1,589	1,116	755	703	..	296	592	6,792	7	52	140	139	23	239	860	157	22	28
Total ..	29	30,776	30,035	15,603	15,338	7,107	8,895	759	2,901	3,492	78,414	135	465	2,794	599	1,922	10,600	9,258	2,394	2,058	62
Chingleput	6	8,296	8,655	8,418	4,761	3,024	906	301	1,623	841	25,394	7	125	337	359	151	4,608	3,094	1,085	638	41
North Arcot	12	12,176	12,385	5,951	5,824	2,677	2,053	49	633	1,145	30,512	29	131	236	53	109	5,129	3,856	560	882	24
South Arcot	5	5,243	5,498	3,198	2,416	969	808	41	59	1,355	13,939	20	47	66	8	515	1,544	911	124	297	23
Tanjore	8	3,268	3,708	1,136	1,913	1,034	737	33	203	1,112	8,112	1	14	117	38	19	1,438	925	150	866	62
Trichinopoly	5	4,256	4,194	3,244	2,726	1,631	690	179	328	220	11,694	6	126	395	245	170	1,125	1,092	234	91	190
Madura	8	19,450	20,388	21,800	13,614	5,028	3,480	600	3,045	4,178	61,648	30	184	1,487	594	1,827	11,944	5,060	2,543	5,279	24
Ramnad	9	12,846	15,406	7,581	8,891	2,994	4,247	132	1,397	25,352	35,893	25	76	1,924	738	1,262	7,288	4,732	663	957	33
Tinnevely	8	13,744	15,332	7,589	8,254	4,145	7,081	4	2,230	1,416	36,665	1	420	2,644	801	852	4,847	4,321	2,399	1,044	34
Coimbatore	10	12,672	11,900	8,115	4,655	1,770	1,389	315	437	3,289	32,687	2	220	331	99	1,026	2,356	1,977	564	1,146	42
Salem	3	2,755	2,699	996	1,204	698	731	..	18	1,429	6,450	..	74	375	5	1,264	390	458	32	92	33
Total ..	74	94,706	100,175	68,063	50,233	23,364	21,922	1,654	10,973	17,335	262,964	123	1,426	7,912	3,029	6,695	40,798	26,245	8,354	12,261	68
The Nilgiris	2	1,138	1,087	1,246	592	225	410	..	8	141	3,471	..	11	119	..	170	602	542	8	179	26
South Kanara	5	4,424	4,777	3,433	2,395	846	294	679	741	2,285	12,684	2	20	183	99	944	3,949	865	1,908	1,248	55
Malabar	3	2,037	2,189	3,417	1,469	739	69	777	127	966	7,633	..	78	42	94	312	1,917	375	968	734	31
Total ..	10	7,599	8,053	8,146	4,456	1,810	773	1,458	876	3,392	23,788	2	109	244	79	4,496	6,586	1,892	2,364	2,122	69
Grand total ..	141	172,037	176,080	118,023	92,366	40,287	40,733	4,479	17,541	20,749	668,140	364	2,440	13,109	4,866	11,729	74,992	46,288	16,989	39,639	28

STATEMENT No. 18.—Results of investigations by Assistant Collectors, Revenue Divisional Officers, Tahsildars and Deputy Tahsildars in 141 selected villages in the Madras Presidency in 1935—cont.

Districts and number of villages.	Debt per family.	Occupied area.	Extent of wet land under ryotwari tenure.	Extent of dry land under ryotwari tenure.	Extent of garden land under ryotwari tenure.	Debt per acre.	Assessment for the whole village, includes rent in zamindari villages.	Debt per rupee of assessment and rent.	Debts on security of immovable properties from			Debt without security from		Debt on security of movable properties mainly from money-lenders.	Unexplained debt.	Total debt.			Total.		
									Government.			Co-operative Credit Societies.	Money-lenders, professional and otherwise.			Co-operative Credit Societies.	Money-lenders professional and otherwise.	From Government.		From Co-operative Societies.	From others.
									(21-a)	(21-b)	(21-c)	(22-a)	(22-b)			(24-b)	(24-c)	(24-d)			
									RS.	RS.	RS.	RS.	RS.			RS.	RS.	RS.		RS.	
Ganjam 4	99	2,068	1,821	1,847	..	52	8,315	19	1,072	2,230	40,890	12,268	98,859	2,024	2,495	1,072	14,492	1,56,773	1,54,882		
Vizagapatam 6	95	5,822	2,700	2,764	41	47	29,171	9	4,002	4,068	1,50,032	5,048	99,974	5,120	..	4,002	11,316	2,58,128	2,71,444		
East Godavari 1	59	743	309	112	327	192	6,984	21	..	5,500	29,700	2,915	1,03,765	1,455	..	..	8,415	1,34,920	1,43,335
West Godavari 7	314	21,085	12,997	5,031	564	82	1,13,364	15	2,150	74,049	9,17,305	42,782	6,60,500	19,000	19,800	2,150	1,18,831	15,00,895	17,35,676		
Kistna 8	267	7,481	4,661	2,464	212	89	48,723	14	100	40,050	1,78,960	5,265	4,18,535	21,000	..	..	45,315	6,18,496	6,96,300
Guntur 5	240	18,106	4,278	16,139	170	70	70,037	17	4,632	39,202	1,20,938	88,744	10,37,239	35,000	1,390	..	4,632	77,946	11,03,177	12,75,755	
Neelore 2	95	9,519	170	4,818	..	29	8,859	31	..	1,076	1,50,700	6,538	1,17,100	2,000	..	..	7,614	2,69,800	2,77,414
Total .. 26	203	65,819	26,424	32,975	1,134	69	2,89,453	16	11,956	1,96,775	15,98,525	1,15,154	25,31,063	56,599	23,685	11,956	2,61,929	42,06,188	45,33,756		
Cuddapah 2	118	4,548	1,885	4,470	420	41	15,397	12	1,300	5,800	21,560	2,020	1,56,495	2,870	1,300	7,820	1,80,925	1,90,045	
Anantapur 7	101	22,604	4,339	18,423	82	25	38,115	16	39,622	54,527	1,21,005	21,326	2,42,524	76,916	39,622	75,853	4,40,445	5,55,020	
Bellary 2	339	4,353	..	8,813	..	21	2,971	30	2,676	7,875	50,397	425	27,233	1,100	2,676	8,300	78,730	89,760	
Kurnool 16	196	11,272	7,080	58,967	1,719	18	88,290	15	8,141	85,240	4,12,580	14,974	7,92,868	26,600	8,141	60,214	12,32,048	18,15,677	
Chittoor 2	229	5,696	864	4,843	1,000	45	9,565	27	1,565	6,330	1,92,160	..	54,985	1,000	1,565	6,380	2,48,146	2,56,030	
Total .. 29	157	1,08,473	12,658	90,516	3,221	29	1,67,338	15	53,344	1,19,829	7,97,702	38,745	12,74,105	1,09,466	15,274	53,344	1,58,587	21,50,293	24,07,378		
Chingleput 6	220	13,917	8,623	4,237	82	75	54,018	19	12,093	43,643	5,34,942	94,521	2,43,254	89,157	32,165	12,093	1,98,164	8,60,353	10,48,975		
North Arcot 12	149	11,710	2,976	8,556	249	74	33,502	26	20,507	1,46,968	4,08,452	21,374	1,89,917	25,969	53,500	20,507	1,68,342	6,24,338	80,65,777		
South Arcot 5	131	3,826	1,261	3,781	30	82	17,892	18	4,975	14,696	1,69,936	2,381	1,02,011	8,400	13,000	..	4,975	17,077	2,80,347	3,15,399	
Tanjore 8	262	5,798	4,855	397	86	86	38,268	13	4,510	8,801	1,70,568	11,150	2,95,194	11,000	36	4,510	19,951	4,70,762	6,01,258		
Trichinopoly 5	558	7,152	2,974	3,432	720	211	29,325	51	381	33,777	1,62,110	11,814	2,04,204	2,392	10,91,828	381	45,591	8,09,090	15,07,408		
Madura 8	112	24,274	7,496	15,256	1,596	62	76,320	20	12,230	66,492	8,08,870	46,433	5,06,397	37,500	18,000	12,230	1,12,925	13,62,767	15,05,922		
Ramanad 9	133	22,903	3,244	18,784	745	52	36,017	38	8,115	11,857	5,06,540	7,502	5,92,675	93,800	3,115	19,359	11,68,015	11,85,489	
Tinnevely 8	167	25,105	4,062	9,326	445	55	40,648	28	9,355	4,497	7,65,014	10,435	5,71,838	19,555	9,355	15,132	13,50,407	13,80,894	
Coimbatore 10	318	26,612	1,461	20,567	3,274	56	32,936	45	40,225	30,532	9,80,950	4,560	3,98,504	22,894	930	..	40,225	35,082	14,01,088	14,78,225	
Salem 3	174	5,754	422	5,332	..	37	8,555	26	2,545	1,624	57,220	80	1,51,868	2,545	1,704	2,09,083	2,13,832	
Total .. 74	199	1,47,141	38,264	89,783	7,327	56	3,76,461	27	1,09,936	3,63,087	45,64,302	2,10,240	32,25,857	3,20,507	12,09,548	1,09,936	5,73,337	81,10,666	1,00,03,477		
The Nilgiris 2	150	4,536	1,378	2,332	332	20	6,715	13	3,450	14,650	11,450	1,200	56,360	1,600	3,450	15,760	69,400	89,800	
South Kanara 5	292	4,629	2,102	2,125	1,080	151	24,193	29	..	1,890	4,63,279	8,990	2,28,013	12,297	5,880	6,93,589	6,99,469	
Malabar 3	111	6,756	1,308	2,103	1,353	24	11,434	14	511	50	1,04,632	1,961	42,752	9,000	3,680	3,011	1,56,004	1,62,086	
Total .. 10	218	15,921	4,783	7,060	3,365	60	42,342	22	3,961	16,490	5,69,581	7,151	3,21,115	3,887	3,680	3,961	23,641	9,19,563	9,51,955		
Grand total .. 141	194	3,37,354	83,139	2,20,339	14,947	63	8,65,614	31	1,79,097	6,66,174	75,20,110	3,71,230	73,58,139	5,36,489	12,52,397	1,79,097	10,37,464	1,54,16,788	1,78,36,366		

The following results are worked out or abstracted from this statement and should, I again submit, be accepted only as rough averages:—

	Agricultural population.
Registered holders	54
Tenants	18
Labourers	28
	100

As a result of assignments to the labouring classes, many labourers have now become small holders of land. They are also frequently tenants in a modest way. Small landholders may also be tenants and may also hire themselves out as labourers in their spare time. All these contingencies should be taken into consideration when valuing these figures.

The percentages of those free from debt to those examined are as follows:—

Registered holders	21
Tenants	23
Farm labourers	36

The debt per head of population is 38. The debt per family is 194.—Thus, there are on an average five members to a family.

The debt per acre of occupied land (ryotwari, inam and zamindari) is 63. The debt per rupee of assessment (ryotwari, inam and rental to zamindars) is 21.

There are, in 161 villages, 2,440 agricultural money-lenders operating, as compared with 364 professional money-lenders like Marwaris, the proportion being about 7 to 1. Traders and money-lenders, not belonging to the professional money-lending classes, have, I believe, not been included in these figures. The total debt in 141 villages is Rs. 1,78,85,663 and has been borrowed in the following proportions from different kinds of creditors.

Government (takkavi)	1
Co-operative societies	6
Others, mainly ryot money-lenders	93
	100

The total debt is divided as follows:—

Mortgage debt	47
Unsecured debt	50
Debt on security of movables	3
	100

40. Total debt on population basis.—According to statement No. 18, the debt per head of population is Rs. 38 as compared with Rs. 37, arrived at by the Madras Banking Enquiry Committee in 1930. It was obviously not possible for the investigators to include the indebtedness of the larger landholders, who do not live in the villages where they own lands. Often these landholders own lands in several villages. I shall demonstrate later by figures that the debt per head increases with assets. The more land a man holds, the more is he indebted, so that the average debt per head of those who pay over Rs. 100 in assessment is very nearly a thousand rupees. This unavoidable omission to record the debts of

the landlords, who live away from the localities in which they own land, has undoubtedly vitiated to some extent the results arrived at, especially of the debt per head. I consider that the figure Rs. 38 is too low and should be increased by at least 10 per cent to include these larger landholders, who have not been enquired into. I therefore propose to adopt Rs. 42 as the debt per head of population. The next point to be decided is by what figure this debt per head should be multiplied to give the agricultural debt for this presidency. The Madras Banking Enquiry Committee in 1930 chose the figure given for total population according to the 1921 census. This was 42 millions. Actually, in 1930, the total population was about 46 millions, as the 1931 census gave 46.7 millions. Both the censuses of 1921 and 1931 conclude that 71 per cent of the population was supported by agriculture. The Madras Banking Enquiry Committee did not choose to adopt this proportion for purely agricultural population in 1921, which should have been 71 per cent of 42 millions. The committee must have had sound reasons for this procedure. I believe that the total population was chosen, in preference to the population supported by agriculture, because almost every Indian family in India has some sort of landed interest or other, though all are not supported by agriculture. I shall therefore follow the lead of the Madras Banking Enquiry Committee and multiply the debt per head by the total population. The 1931 census gave 46.74 millions as the total population. Assuming that population increased from 1931 to 1935 at the same rate as from 1921 to 1931, we should have a population in 1935 of about 48.57 millions. The total agricultural debt on the population basis is therefore Rs. 42 × 48.57 million or Rs. 204 crores.

41. Total debt on average basis.—The results of the present investigations are worth comparing with the results of the Madras Banking Enquiry Committee.

	Debt per acre.	
	1930.	1935.
Northern circles	62	69
Ceded districts	23	22
Tamil districts	62	68
West coast	65	60

The average worked out by the Madras Banking Enquiry Committee in 1930 was Rs. 51. I have worked out the average by dividing the total debt in the 141 villages investigated into by the total acreage under occupation and have arrived at the figure Rs. 63.

The Madras Banking Enquiry Committee multiplied Rs. 51 by the total acreage under ryotwari holdings and arrived at Rs. 149 crores. The area under zamindari held by occupancy tenants was not included by the Committee. I submit that this area should be included, as we are also dealing with the indebtedness of occupancy tenants and such have quasi-proprietorial rights over their

lands. The area under ryotwari holdings in 1933 was 27,880,556 acres. To this, I add the rough figure 5,000,000 acres as the area held by occupancy tenants in zamindaris. The total comes to 32,880,000 acres. *The total agricultural debt on the acreage basis is therefore Rs. 63 × 32,880,000 or Rs. 207 crores.*

42. *Total debt on assessment basis.*—The debt per rupee of assessment, or zamindari rent, is Rs. 21 as compared with Rs. 19 arrived at by the Madras Banking Enquiry Committee in 1930. The Committee multiplied 19 by the ryotwari assessment and rental on zamindari land, and arrived at a total of Rs. 153 crores. I submit that cesses on ryotwari amount must be included as the investigators include cesses in their calculations. When an agriculturist is asked what land revenue he pays, he invariably gives a figure which includes cesses.

The assessment in fasli 1343 was Rs. 5,97,07,979. The rental in zamindaris under the same fasli was Rs. 2,38,28,737. Cesses on ryotwari and miscellaneous was Rs. 84,08,220. These total to Rs. 9,19,45,000. *The total agricultural debt on the assessment basis is therefore Rs. 21 × 9,19,45,000 or Rs. 193 crores.*

43. *Total estimated debt.*—The total debt has been calculated by the above three rough methods and the results agree closely. *I would therefore estimate the total agricultural*

debt in this presidency at the present day at about Rs. 200 crores. The detailed enquiries which led to this estimate were made in February, March and April of this year. This estimate obviously excludes petty loans entered in *Katha* accounts and loans in kind.

44. *Mortgage debt.*—The Madras Banking Enquiry Committee arrived at the total debt by another method. They multiplied the average per year of the aggregate value of mortgages by three, added to this the aggregate value of bonds in 1928 multiplied by two and called this the outstanding registered debt, rural and urban. Assuming this to be 50 per cent of the whole debt, they arrived at 134 crores as the total debt. I feel that this method is not very convincing. All my enquiries go to show that the figure 3 by which the aggregate value of mortgages was multiplied to arrive at the mortgage debt, is far too low. It is most difficult, if not impossible, to arrive at the proper multiple. The slightest mistake in this multiple will vitiate total mortgage debt enormously. Again, there has been no allocation between rural and urban debt, and I doubt if the figure 2, by which value of bonds was multiplied, is the correct one. The estimates are too rough.

I give below a statement taken from figures for the last ten years, furnished by the Registration department of gifts, sales, mortgages and bonds:—

STATEMENT NO. 19.—Taken from the administration reports of the Registration Department.

	Gift.		Sale.		Instruments of mortgage.		Bonds.	
	Number.	Aggregate value. RS.	Number.	Aggregate value. RS.	Number.	Aggregate value. RS.	Number.	Aggregate value. RS.
1924	17,822	1,28,39,120	575,361	27,24,86,625	506,918	19,04,18,477	80,669	2,39,68,085
1925	18,146	1,49,93,885	587,103	28,09,76,020	508,355	20,10,06,341	80,335	2,49,37,524
1926	19,726	1,53,08,939	589,702	28,84,35,392	494,227	19,71,02,316	29,857	2,46,08,099
1927	20,295	1,63,17,938	625,321	31,69,90,603	525,747	20,56,72,478	33,952	3,99,07,501
1928	21,034	1,67,63,093	643,208	32,63,60,591	510,974	19,87,43,259	32,256	3,43,20,954
1929	21,807	1,73,34,310	649,499	32,44,12,602	485,850	19,65,66,096	31,308	3,17,12,924
1930	20,732	1,65,79,881	581,438	29,00,09,466	444,182	18,93,04,547	33,150	3,99,39,681
1931	18,749	1,31,07,972	503,735	24,59,67,009	389,487	17,09,89,913	26,651	2,01,18,932
1932	22,537	1,42,99,530	623,080	28,04,00,364	418,235	17,68,50,031	21,051	1,00,85,682
1933	22,173	1,32,80,127	595,961	25,61,06,946	388,582	15,84,35,523	19,549	93,71,427

This statement shows that, as regards gifts, sales, mortgages and bonds, registered by the Registration department in the last ten years, the highest numbers and values were reached in the years 1927 to 1929 and thereafter there was a steady decline in all these transactions. So far as gifts and sales are concerned, the lowest point was reached in 1931 and they have increased thereafter in number and value. Mortgages have been dropping steadily from 1927 to 1933, and so also have bonds been declining from 1927 to 1933, except for a sudden and temporary leap upwards in 1930. These figures clearly indicate that fresh borrowings in the depression period are less than before the depression, and that every year the amount borrowed is getting less. Legitimate sales of land are naturally falling during the depression, owing to the remarkable decline in the value of land. The worst year for sales and gifts in the last ten years was 1931. Thereafter, there has been a rise, which I suspect is due, not to the desire for land as an investment but to the forcing of clients by lenders of money to part with their lands in part or whole payment of their debts.

I may also add that there is the growing tendency for unsecured debts to become converted into secured debts, at the insistence of money-lenders, who are finding that their free-and-easy methods of letting unsecured debts accumulate *ad infinitum* is becoming dangerous in this depression period, when land is steadily falling in value, and the return from the land in terms of money is also on the decline. In spite of these definite trends, fresh mortgages are steadily falling year by year, which is a clear indication that the agriculturist, along with others, is finding it harder and harder to obtain fresh credit.

45. *Nature of security.*—As already stated, the total debt consists of about 47 per cent mortgage debt, 50 per cent unsecured debt and 3 per cent debt on the security of movables—gold, silver and crops mostly.

46. *The purpose of borrowing.*—The investigators responsible for the figures in statement No. 18 have attempted to classify from enquiries the purposes for which debt was incurred. This classification, which must be accepted with the same caution as the figures

for total debt, is furnished in the following statement:—

	RS.	PER CENT.
Purpose of borrowing—		
Payment of prior debts ..	44,85,400	25.1
Marriage and other ceremonies.	18,80,761	10.5
Payment of land revenue. . .	5,84,173	3.3
Relief of distress ..	10,88,377	6.1
Agricultural expenses ..	17,87,457	10.0
Improvements to land ..	7,88,709	4.4
Education of children ..	2,47,337	1.4
Trade ..	23,01,937	12.9
Purchase of land ..	24,74,715	13.8
Construction of houses ..	10,08,416	5.6
Other expenses ..	12,38,384	6.9
Total debt in 141 villages in the Madras Presidency.	1,78,85,666	100

Payment of prior debts takes precedence over all other purposes at 25.1 per cent. It is difficult to decide what really is a productive purpose and what not. For instance, trade and education are necessary and useful and are in this sense productive. If, however, the term *productive* is adopted in the restricted sense of only benefiting the land and helping cultivation, productive purposes should consist of the following: agricultural expenses, improvements to land, purchase of land, construction of houses and payment of land revenue. Education and trade may be mentioned separately, and unproductive purposes should consist of payment of prior debts, ceremonies and relief of distress. Classified thus we get the following results:—

Debts for productive purposes ..	..	37.1
Debts for unproductive purposes. . .	..	41.7
Education of children ..	..	1.4
Trade ..	..	12.9
Miscellaneous ..	..	6.9
Total ..	..	100

Result of personal investigation of 564 families throughout the Presidency.

(1)	Number of families.	Extent of holdings and land taken on lease.	Assessment and rent paid.			Total debt.	Debt for family.	Debt per head.	Debt per acre.	Debt per rupee of assessment.
			ACS.	RS.	A. P.					
Farm labourers owning no lands and paying no assessment or rent ..	28	..	..	..	1,739	76	15	..	..
Registered landholders and tenants paying land revenue or rent of Re. 1 to Rs. 100 ..	306	4,483-08	11,143	8 0	3,28,428	1,057	211	72	29	
Registered landholders and tenants paying land revenue or rent of Rs. 100 and above ..	235	24,738-00	1,85,458	4 0	10,79,166	4,592	918	44	8	

It will be seen that the average debt per head increases with assets. While the farm labourer's debt is only Rs. 15 per head, that of the landholder or tenant, who pays assessment or rent, between Re. 1 and Rs. 100, is Rs. 211 and the figure actually rises to Rs. 918 for those who pay assessment or rent of over Rs. 100. The farm labourer and the tenant-at-will have no landed property. No one will therefore lend them much money. So their debt is limited. As regards ryotwari landholders and occupancy tenants, they have the security of land to offer, and the more their security the more their borrowing power, and the more do they actually borrow.

I submit, however, that the *burden of debt* should not be estimated by the amount borrowed alone. A man with a debt of rupees 20,000 may be more solvent than a man with

Debts for productive purposes, excluding trade and education, therefore account for only 37.1 per cent, while unproductive purposes account for 41.7 per cent. A large amount of this proportion is swallowed by payment of prior debts, while expenses on ceremonies cover about a fourth of the unproductive debt. The argument adduced by so many, that the plight of the agriculturist is entirely due to extravagant expenditure on ceremonies like marriages, is not borne out by these figures. No doubt, expenses on ceremonies do account for 10.5 per cent of the total debt and can well be substantially reduced, but such unproductive expenditure is not by any means the sole cause for the heavy indebtedness of the people.

Before the depression, much money was spent on investing and speculating on land and as much as 13.8 per cent of the indebtedness is accounted for in this way. Now, sales are dwindling for want of buyers, who find they have better sources of investment than land. A significant fact is the very small sum spent on the education of children. Payment of land revenue has caused only 3.3 per cent of indebtedness, while relief of distress (most of the borrowings under this head I believe were in recent years after the depression) has led to 6.1 per cent of the debt.

47. *Indebtedness among different classes.*—The theory that debt follows credit is well illustrated by the indebtedness per individual of different classes of agriculturists. I made personal investigations of about 560 agricultural families scattered throughout the Presidency and recorded detailed statements from the representatives of each of them and the following are some of the results:—

a debt of Rs. 500. The proper criterion of the burden of debt is the proportion which indebtedness bears to assets.

Labourers and tenants-at-will generally have no landed property at all and so their burden of debt is heavy, though the amount is trivial. As already stated about 86 per cent of them are free from debt and the average debt per family is about Rs. 76. Labourers and tenants-at-will live a frugal and simple life and spend very little on clothes and food. Their only items of extraordinary expenditure are ceremonies and drink. The average labourer spends as much as Rs. 100 on a marriage, for which he generally borrows by binding himself to service under his creditor for a fixed period of years. Much money is spent on drinking. Such classes have few commitments in money. The labourer, who

is paid in grain wages, has not suffered any loss in income in kind as the result of the depression. Those paid in cash wages have been forced sometimes to accept a lower money wage as a result of the depression; but wages have certainly not fallen in the same proportion as prices have. Indeed wages in certain places have not fallen at all while prices of commodities have dropped steeply. The position of labourers and tenants-at-will is therefore not as alarming as the position of other classes of agriculturists.

Small and medium landholders including occupancy tenants who pay assessment or rent from Re. 1 to Rs. 100 are the hardest hit of all the agriculturist classes. They form the great bulk of the landowning or landholding classes and are the backbone of the agricultural industry in India. They are the people who generally live in the villages and personally attend to the cultivation of their lands. There are few absentee landlords among them. Their lands are the best tended and cultivated of all. Though the debt per head among them of Rs. 211 and per family of Rs. 1,057 is less than the debt per head and family of the bigger landholders, the debt per rupee of assessment and the debt per acre is far higher than among those who own or hold more land. This will be clearly seen from the previous statement. The debt per acre among these small and medium farmers is Rs. 72 and the debt per rupee of assessment or rent is Rs. 29, and only about 18 per cent of them are free from debt. They live frugal lives no doubt, but, in order to keep up their status and prestige as respectable *pattadars*, are obliged to spend large sums on ceremonies. Caste imposes many unhappy restrictions upon them. They are often too proud to work as labourers, or to engage in subsidiary occupations. They are the people, who are burdened with the heaviest debt and who are steadily losing their lands to their creditors. I have indicated in paragraph 11 how the number of *pattadars* paying Rs. 100 and less has actually fallen by 32,67,537 between faslis 1335 and 1340. It is this tendency for land to pass from the cultivating small and medium owners into the hands of absentee landlords, which needs to be checked as soon as possible and the only direct way in which this can be done is to relieve the former of their pressing burden of debt, without forcing them to part with their lands.

The larger and big landholders who pay over Rs. 100 in assessment or rent are also badly hit, but not to such an extent as the small and medium ones. The average debt per head among them is about Rs. 918, but the debt per acre and per rupee of assessment is only Rs. 44 and Rs. 8, respectively, as compared with Rs. 72 and Rs. 29 among the small and medium landholders.

There are many absentee landholders among those who pay over Rs. 100 in assessment. Many do not depend upon the land for a living, but earn their livelihood as Government servants, or in professions like law and

medicine. The very big landlords include among them prosperous money-lenders (professional or otherwise) who have acquired most of their lands by court sales or private sale in discharge of debts due to them. If, from this class of those who pay over Rs. 100 in assessment, we exclude all those who do not support themselves solely or mainly by agriculture, we shall be left with a class of large and big landholders who are supported almost solely by agriculture and members of this class are almost but not quite as badly involved in debt as small and medium landholders. Some cultivate their lands in person and others are absentee landlords who lease out to tenants. The average debt per head and family among them will be above Rs. 1,000 and Rs. 5,000, respectively. About 20 per cent of this class will be free from debt.

43. *Relation of debts to assets.*—My personal enquiries from 541 landholding families led to the following results:—

Their landed property, consisting of 12,663 acres of wet land, 16,406 acres of dry land and 108 acres of garden, was worth Rs. 1,57,00,000 before the depression. The present value, they state, of the same property is only Rupees 68,56,000. The total indebtedness of these families was found to be Rs. 14,02,000. *This showed that the relation of debt to value of landed property before the depression was 9 per cent, but at the present is 20 per cent.* These figures show in a striking manner the effects of the depression.

49. *Credit agencies.*—As already seen, borrowing from different kinds of creditors can be divided as follows:—

Government	1
Co-operative societies	6
Others	93
	100

Government (takavi loans) and co-operative societies together account for only 7 per cent of the total debt. Creditors, other than Government and co-operative societies, account for 93 per cent of the debt. Agriculturist money-lenders are the biggest money-lenders, followed by professional and trader money-lenders. Banks do not lend much direct to agriculturists. The Imperial Bank of India lends to a certain amount on the security of produce, provided proper godowns for storage are forthcoming. Unfortunately such godowns are extremely scarce and if I am asked how best I would spend a goodly sum of money for the relief of the agriculturist, I would say, "first build good godowns all over the country, secondly dig wells and then improve village communications."

CHAPTER V—CIVIL COURTS.

50. The following statement furnishes civil court statistics for mufassal courts for ten years from 1924 to 1933.

STATEMENT No. 20.—Civil Court Statistics.

Year.	Number of suits for money or movable property.	Number of mortgage suits.	Execution proceedings.					Insolvency petitions.			
			Number of execution applications received (except village and panchayat courts).	Satisfaction obtained in full.	Satisfaction obtained in part.	Wholly infructuous.	Amount realized in execution.	Number of debtors imprisoned in execution.	Number filed.	Number granted.	Number refused.
1924 ..	489,544	22,046	353,460	55,292	29,954	265,308	1,08,25,105	3,732	3,209	1,767	171
1925 ..	525,555	22,429	360,225	57,965	32,004	267,748	1,73,73,120	3,653	3,419	1,980	224
1926 ..	520,813	24,212	367,367	58,996	33,600	271,867	1,92,40,072	3,782	3,265	1,968	187
1927 ..	483,065	24,267	368,024	59,088	35,191	273,900	2,18,30,490	3,960	4,245	3,097	108
1928 ..	453,616	23,001	370,683	60,771	36,151	276,315	2,15,08,754	4,082	4,345	2,694	233
1929 ..	470,200	21,995	365,034	59,906	36,478	267,596	2,24,43,998	3,043	4,360	2,794	221
1930 ..	478,404	20,644	374,600	57,146	37,282	274,110	2,20,23,498	4,030	4,593	3,037	143
1931 ..	539,592	20,754	383,277	50,083	41,832	285,046	1,98,24,927	4,505	6,334	3,630	179
1932 ..	571,613	23,644	403,952	52,936	46,821	296,742	2,26,34,184	4,544	6,473	4,067	233
1933 ..	558,315	22,767	399,004	47,595	48,817	300,440	2,29,08,738	4,417	6,104	4,645	310

The number of suits for money or movables and the number of mortgage suits have not risen conspicuously from 1924 to 1933. A more or less steady average has been maintained in these years; there has been a slight increase in both classes of suits, in spite of the acute economic depression. As regards execution proceedings, the number, in which full satisfaction was obtained, rose from 1924 to 1928, when the depression commenced in earnest, and thereafter fell more or less steadily. The number of wholly infructuous cases however has steadily increased through the ten years under review. The number of debtors imprisoned in execution shows a steady and substantial increase. Insolvency petitions have also increased so that the number granted in 1933 is more than double the number granted in 1924.

Statement No. 20 exhibits figures for all classes of people, not agriculturists alone. Much difficulty was felt in obtaining figures relating only to agriculturist defendants and applications for insolvency. After much correspondence, it was decided that the term should cover all those who gave their occupations as *cultivation* or *agriculture*. The old records in civil courts had to be examined in detail and figures extracted. Many records were not available and some had been destroyed. Eventually, only thirteen District Judges were able to send me figures for the years 1930 to 1934. These have been consolidated and tabulated and the result is furnished below. For the reasons given above, the figures may not be quite accurate. The full reports of the District Judges will be found in Appendix III.

STATEMENT No. 21.—Civil Court Statistics (Original and Small Causes)—Thirteen districts (Figures for the remaining districts not received or incomplete).

Years.	Number of suits instituted in the Civil Courts in districts against defendants whose profession is agriculture or cultivation in the discharge of debts.	Total value of such suits.	Number and value of such suits on promotes without security.		Number and value of such suits on the security of immovable property.		Number and value of such suits on the security of movables.	
			Number.	Value.	Number.	Value.	Number.	Value.
1930 ..	47,975	1,62,80,383	37,659	98,04,022	6,096	54,33,613	352	68,209
1931 ..	53,020	1,74,55,584	44,772	1,17,98,704	5,953	43,47,742	320	58,184
1932 ..	55,857	1,83,92,011	49,482	1,20,29,239	9,081	77,39,652	315	56,054
1933 ..	52,881	1,93,70,141	42,018	1,00,57,850	7,442	54,02,573	496	50,747
1934 ..	47,894	1,55,52,985	37,008	87,78,266	7,151	61,40,477	307	59,565

Years.	The average duration of suits.	Number of decrees passed in favour of plaintiffs.	Number of decrees passed in favour of defendants.	Value of decrees passed on behalf of plaintiffs.	Area, assessment and value of land which has passed from defendant to plaintiff through Civil Courts as a result of decrees against defendants.	Number of agriculturists and cultivators who have put in insolvency petitions.
1930 ..	397	45,109	4,833	1,37,59,855	Not complete.	977
1931 ..	574	50,936	5,239	1,62,85,708	Do.	1,494
1932 ..	384	52,893	6,309	1,69,75,004	Do.	1,610
1933 ..	322	50,823	5,450	1,48,77,040	Do.	1,363
1934 ..	489	42,004	4,728	1,11,99,867	Do.	1,320

It will be seen that the number of suits against agriculturists in the discharge of debts is almost the same in 1934, as in 1930. The

highest point was reached in 1932 and thereafter there has been a steady falling off which shows as far as I can see, not that creditors

* Not printed.

are pressing agriculturists less heavily to discharge debts, but that private negotiations are being increasingly resorted to in discharge of debts, in preference to taking the cases to civil courts. Cases brought to court for unsecured debts far exceed those for secured debts. The average duration of suits is startlingly high, exceeding 400 days or approaching a period of two years. One can imagine the great cost to the parties, incurred in travelling long distances to appear at these courts over and over again for a single suit, often to waste their time and money in idle waiting because of inevitable adjournments. As might be expected, the plaintiffs have won in about 90 per cent of the suits. Insolvency among agriculturists was highest in 1932 and thereafter decreased somewhat, but the insolvency petitions in 1934 are far higher than in 1930.

51. *Treatment of usury and other mal-practices of money-lenders by civil courts.*—I asked all District Judges kindly to furnish me with particulars of the extent to which the Usurious Loans Act was worked in the districts with details of the number of cases in which interest had been cut down and particulars of the interest eventually awarded. The replies were vague and incomplete and not capable of being tabulated. Several District Judges were not able to give any information whatever on the subject. I have given below the answers received to these questions.

Extracts regarding the working of the Usurious Loans Act from the reports of the District Judges.

Ganjam District Munsif's Court, Sompetta.—The provisions of the Usurious Loans Act are being applied in some cases, and in all cases where interest is found to be excessive or penal, interest is being reduced to 18 per cent.

District Munsif's Court, Chicacole.—In three suits 15 per cent compound interest is reduced to 12 per cent simple interest, 18 per cent compound interest to 12 per cent simple interest, and 60 per cent compound interest to 12 per cent simple interest.

East Godavari—District Munsif's Court, Razole.

Year.	Number of cases dealt with under the Usurious Loans Act.	Interest claimed. Per cent.	Interest allowed. Per cent.
1930	1	15	6
"	1	28½	6
1931	2	37½	25
"	6	37½	24
"	2	37½	18½
"	3	37½	6
"	1	27½	24
"	1	30	6
1932	26	37½	24
"	2	37½	18½
"	3	28½	24
"	2	45	22½
"	1	30½	24
"	1	31½	24
"	1	25	18½
"	1	37½	24
1933	26	37½	24
"	1	22½	12
"	3	28½	24
"	1	37½	18½
"	1	30	24
1934	1	67½	12

District Munsif's Court, Peddapuram.—Two hundred and twenty-one cases in which the rate of interest was cut down.

District Munsif's Court, Amalapuram.—Two hundred and sixty-three cases in which the rate of interest was cut down.

KISTNA.			
Year.	Number of cases dealt with under the Usurious Loans Act.	Interest claimed. Per cent.	Interest allowed. Per cent.
1930	2	22½	12
1931	8	22½	12
"	1	12½	12
"	3	16½	12
1932	3	22½	12
"	3	12½	6
"	1	12	6
"	15	12	(compound interest) 12 (Simple interest)
1933	28	12	(compound interest) 12 (Simple interest)
1934	119	12	(compound interest) 12 (Simple interest)
"	4	12½	(compound interest) 12½ (Simple interest)

Guntur—Sub-Court, Tenali.—One hundred and eighty-three cases in 1930–1934 where the rate of interest allowed ranges from 6 to 12 per cent.

District Munsif's Court, Guntur.—In 23 cases interest was reduced from 45 to 30 per cent.

In eight cases interest reduced from 37½ to 30 per cent.
Do. 30 to 15 do.
Do. 45 to 30 do.
Do. 75 to 24 do.

District Munsif's Court, Repalle.—Interest was disallowed in 61 cases and allowed at 12 per cent in six cases. In 161 suits interest was disallowed. In 28 cases, the amount allowed was less than that claimed.

District Munsif's Court, Narasaraopet.—Wherever interest was found penal, it was disallowed. Only in *ex parte* suits, the contract rate was allowed till date of plaint and interest at 6 per cent allowed thereafter.

Nellore—District Munsif's Court, Kavali.—In 96 cases interest was reduced from 24 and 37½ per cent to 12 per cent.

Ouddapah.

1930 29 cases reduced to 12 per cent.
1931 2 cases reduced to 12 per cent.
1 case 19 per cent disallowed.
1932 7 cases reduced to 12 per cent.
1933 5 cases allowed 12 per cent.
1934 6 cases allowed 12 per cent.

Kurnool—District Munsif's Court, Nandyah.—1930–34—90 cases—Interest cut down to 12 per cent.

District Munsif's Court, Markapur.—1930–34—783 cases—Interest was reduced to 6 per cent.

Chittoor.—Prior to 1931, 6 per cent was awarded. In 1931 and 1932, 126 cases were awarded interest at 12 per cent. The original claim was from 18 to 36 per cent. In 1933–34, 261 cases were awarded at 6 per cent as against claims for 12 to 36 per cent.

"The number of cases would be much greater, were it not that vakils know what rates of interest the court is likely to allow and usually limit them accordingly."

North Arcot—1930-34.—In 33 cases the interest was cut down.

Coimbatore—1930-34.—In 687 cases interest has been cut down. It was reported that generally interest is allowed at 24 per cent per annum wherever the contract rate provides for a higher interest.

The Nilgiris—1930-34.—In 29 cases interest has been cut down. It is reported that generally interest is allowed at 24 per cent per annum wherever the contract rate provides for a higher interest.

South Arcot—District Munsif's Court, Chidambaram.—Generally interest is allowed at not more than 24 per cent per annum. In cases where interest is claimed in excess of 24 per cent, it is invariably reduced to 24 per cent per annum.

District Munsif's Court, Vriddhachalam.—The District Munsif states that the interest usually claimed by money-lenders has been 24 per cent to 36 per cent. His predecessor had fixed a maximum award of 30 per cent under the Usurious Loans Act. He also reports that he has reduced 30 per cent to 27 per cent. Cases of claim above 36 per cent have been very rare.

District Munsif's Court, Villupuram.—The practice in this court has been to award interest only at 25 per cent per annum whereas it is claimed at more than that rate.

District Munsif's Court, Tindivanam.—Generally the claim is for interest at 24 per cent and in many cases the claim is made only at 18 per cent.

District Munsif's Court, Kallakurichi.—

	Cases.	Per cent.	Allowed.	Per cent.
1930-34 ..	21	36	Allowed.	..
	12	36	Do.	24
	10	36	Do.	24
	83	36	Do.	24
	72	36	Do.	12
	57	37½	Do.	24

Madura.—Interest was cut down in 61 cases in 1932-34. Interest at 24 per cent is generally allowed. It is reported that, though the bonds provide for higher interest, only 24 per cent per annum is claimed and allowed.

Ramnad—District Munsif's Court, Manamadura.—Two hundred and thirty-four cases in 1930-34 were reduced from 18 to 37½ per cent to 6, 12 and 18 per cent.

Salem.—Usually interest is claimed at 24 per cent per annum. In many cases the parties themselves restrict their claim to 24 per cent though the stipulated rate is higher. Courts do not award more than 24 per cent and the percentage of cases where courts reduce the interest will be between 5 per cent to 15 per cent.

South Malabar.—In 46 cases between 1930-34 interest has been cut down.

It is at once obvious that a uniform procedure is not followed in all the courts. The number of cases, in which the Usurious Loans Act has been applied, forms a ridiculously low proportion of the total number of cases dealt with. The decisions, as to what is usury and what is not, seem fickle and uncertain and the rates of interest eventually allowed vary from 30 per cent to 6 per cent. I am compelled therefore to conclude that the decisions have not always been arrived at on definite principles of law, but somewhat perhaps according to the individual personality of the presiding judges. From the reports, I am led to believe that in cases, where the defendant does not appear and is therefore declared *ex parte*, the interest claimed is never questioned by court, however high it might be. It is an established fact that such defendants, being hopelessly poor and dependent, seldom contest the claims of their rich and powerful creditors, who invariably engage good lawyers to represent them. I am led to believe further that the amount of principal claimed and recorded in pro-notes or registered documents is never questioned by the courts in any suit, although it is well-known that the borrower very often does not get the amount recorded in the documents. The worst of it is that interest is calculated on fictitiously recorded principal amounts, thus enhancing the rates of interest to an enormous extent.

Part II.

REMEDIES FOR AGRICULTURAL INDEBTEDNESS.

CHAPTER VI—LEGISLATIVE REMEDIES.

52. *Agriculture as an industry*.—I have heard it often said that India is not an industrial but an agricultural country. The correct way of putting it, however, seems to be that India is a country whose principal industry is agriculture. Agriculture should be regarded as much an industry as ship-building, or the manufacture of motor cars. The difference lies only in their relative importance to the country. Agriculture provides not only food for the people, but also the bulk of their revenues to Local Governments. The Government and the people therefore are equally and specially interested in the welfare of the industry of agriculture. The first essential of a sound industry is that it should be able to market its wares at a price which will ensure to its workers a reasonable wage and to its shareholders a proper return. The periodic trade cycles, which follow each other, upset world prices of most commodities, including the prices of food crops. No amount of manipulation of tariffs can completely eliminate price fluctuations caused by such world-wide trade cycles. But the prices of food crops in India can be stabilised to a greater extent than the prices of other commodities because India herself provides most of the market for such; and there is really not much necessity, as matters stand at present, to import food crops from abroad. Any

deficiency in the Indian supply to meet the Indian demand can easily be made good by increasing the area under cultivation of food crops (for instance, the new area under the Cauvery-Mettur Project is ready to hand) and by adopting improved methods of cultivation. But both these most desirable forms of expansion want a strong stimulus and they are not encouraged by low and constantly fluctuating prices. I submit that one of the most important reasons why prices of food crops especially rice, have fallen so low in the last few years is because foreign rice and paddy have been allowed to be dumped into this country unchecked. The first essential to make the rather tottering industry of agriculture in India a sounder and better concern is for the Government to stabilise prices as far as possible by all methods in their power, especially by erecting an effective tariff barrier against the import of grains from abroad.

No industry can hope to remain solvent, if it borrows indefinitely at rates which are much higher than the returns on invested capital. It is admitted on all sides that the return from the land, on which staple food crops are grown, varies from 2 to 5 per cent in a normal year and seldom exceeds 6 per cent even in a good year. Agriculture in India is mainly a food-producing agency, the proportion of commercial to food crops being very low indeed. It must not be forgotten that the vicissitudes of season are such that out of every five years at least one year is a bad one. Under these circumstances, to borrow indefinitely at rates exceeding even 6 per cent per annum cannot but end in the bankruptcy of the agricultural industry. *It is obvious therefore that lending to the average agriculturist in India at rates, which exceed 6 per cent simple interest per annum, must be regarded as usurious, whoever the creditor may be.* Loans taken by agriculturists at higher rates than 6 per cent simple interest cannot normally be expected to be repaid from the income from the land, and to be discharged eventually must end in the passing of the land into the hands of the creditor. It is this alarming tendency that we now perceive. If the agriculturist is to be saved, the bulk of his standing debt, at rates of interest ranging usually from 9 to 24 per cent and often rising to even 36 per cent, must be paid off by some financing agencies (like Government or co-operative societies or land mortgage banks), who at the same time will give the debtor-agriculturists every opportunity of repaying from their income, by charging interest at as low rates as possible and by collecting in easy instalments spread over a long period of years.

53. *A typical example of debt.*—Let us suppose an agriculturist held 6 acres of wet land, which were worth Rs. 6,000 in 1920. He borrowed early in 1922 on pro-note a sum of Rs. 1,000 from a ryot money-lender. The pro-note recited Rs. 1,000 as principal to be repaid in three years at 18 per cent interest per annum, the interest to be paid annually.

Actually, the creditor charged only 12 per cent interest if paid regularly, 18 per cent being the penal rate entered in the bond and intended primarily for evidence in court. That penal rates of 24 per cent and 36 per cent are quite common must not be forgotten. The borrower was paid in cash only Rs. 880, Rs. 120 being deducted in advance as interest for a period of one year. Interest however was calculated on Rs. 1,000. Prices being steady and high, the borrower was able to pay annual interest till 1928. He therefore paid Rs. 720 in the shape of interest. The note was renewed twice for Rs. 1,000, once in 1925 and once in 1928, partly perhaps because the borrower was unable to repay principal and largely because the creditor not only did not press for principal but actually discouraged the borrower from repaying it. The depression commenced in 1928 and the farmer then found himself unable to repay even interest. The penal rate of 18 per cent therefore came into force and the note was renewed in 1931 for Rs. 1,540 (Rs. 1,000 being original principal and Rs. 540 being interest for three years at 18 per cent per annum). The debt mounted in 1934 to Rs. 2,370 (Rs. 1,540 being principal and Rs. 830 being interest on this for three years at 18 per cent per annum). The note was renewed for this sum in 1934. The creditor by this time was getting scared. So, after a little while, he took the case to court and claimed a sum of Rs. 2,370 as principal. The debtor did not contest this claim. He knew that he would gain nothing by contesting the claim. He was almost certain to lose his case. His expenses would be enormous, as he would have to engage a lawyer and go up and down to court for the numerous hearings spread over a year or two perhaps. So he wisely remained at home and allowed himself to be declared *ex parte*. The court, going upon documentary evidence, decreed for plaintiff a sum of Rs. 2,370 as principal and perhaps over a hundred rupees as costs and interest. The total value of the decree came therefore to Rs. 2,500. The defendant had no money. He only had his land and a thatched cottage. These were put to court sale. The land, which was worth Rs. 6,000 in 1921, could not fetch even Rs. 3,000 in 1934. There were no bidders. The plaintiff eventually bought in all the land, as well as the cottage, in settlement of the decree. In this way the debt was cleared by recourse to civil court. The defendant was rendered a landless and homeless pauper. He had to become a labourer or a tenant. In either case, his future outlook was miserable. He worked listlessly thereafter and eked out a miserable livelihood. The land he cultivated on lease became neglected. The plaintiff's landed property was already enormous and he certainly did not want more land, but had been forced to take up 6 acres of wet land and a cottage. The land had to be leased out or allowed to remain waste. Even if leased out, the yield could never be expected to be what it was when it had been cultivated by its previous owner, the small owner-cultivator.

Hence, for the settlement in 1934 of a loan of Rs. 880 in 1922, the farmer lost all his land worth Rs. 6,000 in 1922. He also paid Rs. 720 in interest and lost his house. This is what is happening every day now in hundreds of cases taken to civil courts.

54. *The need for scaling down debt.*—The present agricultural debt in the province is about Rs. 200 crores, not including petty loans and loans in kind. It is mounting rapidly by the accumulation of high rates of interest, in spite of the fact that much land is passing from debtor to creditor in settlement of some of the debts. The total landed assets are now worth only five times the standing debt. The need is great therefore for the scaling down of agricultural debt. The advantages to the debtor agriculturists are obvious. Such a scaling down will be of equal benefit to creditors, provided after the scaled down amount is mutually agreed upon, the creditor is paid off in money the sums decreed. The creditor is finding it increasingly difficult and expensive to draw in his loans, and his best efforts are only bringing him in more land which he really does not want and which he does not know what to do with. Even, if he is given formal possession of the land, he often finds it almost impossible to enter upon and exploit it owing to the determined opposition of the previous owner and his friends. He will welcome payment in money, even if he has to accept about half his legal claim. But, if he is going to agree voluntarily to a scaling down of the debts due to him, he will quite rightly insist on payment only in money and certainly not in land. So long as conciliation is voluntary, it cannot scare off future credit to any marked extent. On the contrary, it will perhaps encourage future lending.

55. *The need for debt conciliation boards.*—The next question for consideration is the kind of tribunal, which will best discharge the responsible and onerous duties of conciliation between lender and borrower. Civil courts are out of the question. They have not the time to go carefully into the histories of the hundreds of thousands of cases that will have to be conciliated. The cost of civil litigation is prohibitive and the delays excessive. The best course is to provide for the creation of debt conciliation boards by legislation. Most of the other provinces and the progressive States are of the same opinion. The Bill of M.R.Ry. Diwan Bahadur T. A. Ramalingam Chettiyar before the Madras Legislative Council has this object in view.

56. *Public opinion on the proposed legislation.*—I took the opinion of selected members of the public on this subject by means of a questionnaire and had talks with many people about it during my tour. District Judges were also consulted. The members of the Judiciary as well as of the Bar are almost unanimous in opposing the proposed legislation. Their main objection is that such legislation will merely duplicate the machinery for the legal settlement of debts, without conferring any extra benefits on the debtor or

the creditor. While some admit the laws delays, the great cost of civil litigation and the inadequacy of the Usurious Loans Act and relevant portions of other legal enactments, almost every one of them believes that civil courts are still the best tribunals for the settlement of debt, provided some necessary changes are made in the laws now in force. From their replies I am led to believe that many people have only a vague and uncertain idea of what exactly is meant by debt conciliation. The peasant population is almost unanimously in favour of the proposed legislation. Those who fear its introduction do so mainly because they think such legislation will serve to frighten away future credit. Among money-lenders, some favour the move and others do not. As a whole, however, the majority of the people, whom I consulted, are in favour of debt conciliation boards. Those in favour of experimenting with debt conciliation boards unanimously urge that, if boards are to be set up, they should deal with all the debts of agriculturists and should not be limited only to debts on land. I quite agree with this view. As regards the opposition by members of the public and by the Bench and the Bar, I feel that some of it is due perhaps to a lack of knowledge of the present plight of the agriculturist and of what debt conciliation really means. It would indeed be interesting to see what views will be offered after this report is published and opinions are invited thereon. Such legislation will undoubtedly curtail the work of civil courts. One of the principal objects of debt conciliation boards is to reduce the costs involved in a settlement of debts. The principal method is expressly to exclude legal practitioners from appearing before such boards. But the real opposition arises out of a genuine concern that the new scheme is unworkable. The following are the main reasons adduced against the creation of debt conciliation boards:—

(i) The creation of such boards, presumably composed of honorary workers, will lead to greater corruption, faction and injustice than at present; for few honorary workers are available, who can do their onerous duties with that consistently dispassionate and high sense of justice that is required. Influential money-lenders will somehow be able to exert undue influence over these conciliators. The difficulties in the election or selection of proper members for such boards are therefore insuperable.

(ii) Mere voluntary conciliation is of no use. Creditors will never agree to the scaling down of their debts to the extent really necessary for the benefit of debtors. If such boards are created at all, they should be armed with powers to compel the parties to accept their decisions.

(iii) Even assuming that conciliation is practicable and boards have succeeded in passing decrees based upon mutual agreement of the parties, the difficulties of executing the decrees in these hard times will speedily bring the work of such boards to a standstill.

(iv) Conciliation boards will surely frighten off future credit and curtail the facilities that now exist for borrowing; such shortening of credit will result more in hardship than in advantage to the agriculturists, who cannot exist without credit.

57. *The extent and nature of private conciliation at present in force.*—The replies received to the question, “whether conciliation in the matter of discharge of debts is now being restored to and, if so, to what extent?”, are vague and indefinite. The general impression is that conciliation is being resorted to, to some extent, but not systematically or on a large scale. Debtors are certainly appealing privately to their creditors to reduce both principal and interest on the score that the depression has materially reduced land values and prices of produce. In some cases, such appeals seem to have borne fruit and the creditor has reduced his claim. I am told, that influential gentlemen and panchayats are sometimes approached by debtors and creditors for an impartial arbitration and such has resulted in some scaling down of debt. But, private conciliation, I submit, irregular and infrequent as it is, cannot possibly bring about the good results that may be expected from debt conciliation boards appointed by legislation and vested with authority. The main objection to private conciliation is that the debtor has no money to offer. He can only offer his land to the creditor.

58. *Compulsion versus mutual agreement.*—There has been much discussion in other provinces and in the Indian States as to whether conciliation boards should or should not be vested with the power to compel parties to accept their decisions. Reference has repeatedly been made in this report to the fact that the agriculturist, being poor and always in need of help, must be financed by some agency or another for at least the legitimate expenses of cultivation. It will take some time to organize and expand the co-operative movement sufficiently enough for it to be able to shoulder the burden of supplying the peasant population with credit for productive purposes. At present only 6 per cent of the total debt has been advanced by co-operative societies. In the meanwhile, the agriculturist wants credit and he can get most of it only from the money-lender. The latter therefore is very necessary. It behoves us to avoid all legislation that will frighten away money-lenders. The legislation we contemplate should not in any way even suggest a repudiation of the legal, though often immoral, claims of the money-lender. Rather should we aim at legislation, which will persuade the money-lender by wise counsel to forego voluntarily a portion of his legal claim. He should be compelled in future to refrain from charging usurious rates of interest and to be business-like and above-board in his methods. But compulsion should not extend further. No doubt, the present position of the agriculturist debtor is alarming and his great burden of

debt has to be speedily lifted from his shoulders. In spite of this, however, to invest debt conciliation boards with powers to compel creditors to scale down principal and interest, will lead to incalculable harm to the very classes whom we are out save. I would urge therefore that there should be no compulsory debt conciliation, at least for the present, but that the working of the machinery for voluntary conciliation, which is to be created, be carefully watched for some time and that, only if this machinery fails to afford the relief that it is intended for, compulsion should be applied as a very last resort.

59. *Mr. Ramalingam Chettiyar's Debt Conciliation Bill.*—It is necessary now to take up the important features of Mr. T. A. Ramalingam Chettiyar's Debt Conciliation Bill, which has been held up from going before the Select Committee pending my report.

Clause 1.—No remarks.

Clause 2.—I would say that all agriculturist debtors with debts above Rs. 100 and below Rs. 10,000 should be included. By fixing the minimum at Rs. 150, agricultural labourers and tenants-at-will are largely excluded. I am not for excluding these classes of agriculturists. After all, labourers form 28 per cent of the agricultural population of this province, and tenants-at-will are by no means scarce. While the Central Provinces have excluded labourers and tenants-at-will from the operation of their Act, the Punjab has included them in its proposed legislation. The argument for exclusion seems to be that these classes have little or no security to offer, and therefore the process of recovery from them will be difficult if not impossible. I submit that the questions, whether a particular debtor is inextricably involved or not, whether he can be saved or not, whether he is worth saving or not, and so on, cannot be answered off-hand. It is dangerous to hazard any guess as to relative proportions. Each individual case has to be examined carefully upon its own merits by the board and only then can such questions be answered.

Let us suppose a farm labourer or tenant-at-will owes Rs. 100 (principal plus interest) to a money-lender. He has got to repay this sum or remain for ever in debt. Is it not greatly to his advantage to apply to the conciliation board and have his debt scaled down, say to Rs. 50? How can payment be enforced from him? The labourer is better off than many other classes of agriculturists. He and his wife and his children all work for wages. Often, by borrowing they are bound by the creditor hand and foot to his service for years as farm-servants. They are unable to free themselves from virtual slavery, in which they are not paid in proportion to the work turned out by them. If they are permitted to bring their cases to the conciliation boards, I believe the system of service bondage to creditors will be broken. A labourer's family can easily repay Rs. 50 in easy instalments, in say two or three years or even a shorter period. Even

if, when cases are conciliated, the creditor refuses to accept such terms of repayment, a co-operative society may be able to lend a labourer Rs. 50 on personal or joint security. If all such contingencies fail, the case may be rejected, but will have served its purpose in bringing the undesirable methods of some creditors into public view. I have no doubt that in hundreds of such cases the boards will find that the labourer has actually discharged his debt by service, sometimes many times over. The board then after an enquiry can give the labourer its findings in the form of a certificate, which can be used, should the creditor venture into a court of law. It is the absence of a cheap, honest, sympathetic and easily accessible tribunal which keeps the ignorant labourers under bondage to his creditors. What applies to labourers applies almost equally to tenants-at-will, who are often also labourers.

It may now be argued that no minimum limit of debt need be prescribed. If a minimum is not prescribed, I am afraid applications to debt conciliation boards will be too many to be dealt with. Hence my limit of Rs. 100. As regards the maximum of Rs. 10,000, adopted or proposed by many Provinces and States, I submit that debts above Rs. 10,000 are not common among agriculturists. Those zamindars and very big landholders, who have bigger debts, cannot hope for redress through a debt conciliation board. Neither the Government nor co-operative societies nor land mortgage banks can normally pay such debts, even if scaled down. Applications for conciliation of debts over Rs. 10,000 will only take up much time with very little results. Mr. Ramalingam Chettiyar's maximum limit of Rs. 25,000 in clause 4 may therefore be reduced to Rs. 10,000, with the proviso that Government may prescribe a larger amount if necessary.

Clause 3.—The Bill states that the local Government shall appoint the members of the board. I rather doubt if Mr. Chettiyar intends that such members should be paid servants of Government. No doubt this would be best; for, unless the members command the implicit confidence of all members of the community, there will be no use in having the boards at all. The boards will have to do their work without fear or favour and the slightest partiality shown will ruin their reputation and usefulness. The members require to be unsparring in their labours, and wise and sympathetic in their dealing. They should be capable, by their character, status and conduct, of winning the trust and goodwill of both parties. Such fine material is rare in any country and it will be difficult indeed to find good men willing to devote most of their time to such work without remuneration. Unfortunately, I fear it will not be possible for the Government to pay them, because the number of boards required effectively to cope with the thousands of applications that will flow in will not be less than about five to ten on the average for a

district. A single board for a district will not serve the purpose. The parties cannot be expected to come from all parts of the district to a single centre. The larger the number of boards, the more the chances of success. The payment of regular remuneration to members being manifestly impossible, except perhaps in the way of bonuses from the receipts, how are members to be appointed? There are two alternatives, election or nomination. Those whom I consulted were almost unanimously opposed to the election method. They stated that the numerous elections at present, from panchayats upwards, had done enough damage in wasting money and creating faction. If election is resorted to, rich and influential money-lenders are almost certain to get their nominees into the boards. The only course left is nomination. I venture to suggest that, in selecting the *personnel* of boards by nomination, the most scrupulous care should be taken to choose the very best men possible—not only men of sterling character, but also men of experience and status who will command respect. It may be that in certain areas such men will not be available. In that case, an officer of Government may be deputed to do the duties of a board. Hence, on the lines of the proposed legislation in Bengal, I suggest the insertion of an additional sub-clause as follows: "The local Government shall have power to appoint an officer to exercise all or any of the powers conferred under this Act on a board, as may be determined and notified by the local Government." Such a provision will provide for the continuance of the duties of a board, even after it has been dissolved for some reason or other. I submit that, after these boards have been started, District Collectors should exercise a close supervision over them by periodic inspections and by reviewing monthly returns.

Clause 4.—I have already stated that boards for the present at least ought not normally to have jurisdiction over debts exceeding Rs. 10,000. Clause 4 provides that proceedings should commence with the application of a debtor or creditor to the board itself. This is as it should be. The recommendation of the Agriculturists' Relief Committee in Mysore, that applications in the first instance should be made before civil courts, does not strike me as very desirable. The main objects of debt conciliation boards are speed and cheapness. To insist that applications should in the first instance be made before civil courts will only lead to unnecessary delays, without any corresponding advantages.

Clauses 5 to 11.—In civil courts, the histories of cases are not often gone into in detail for the following reasons:—

(a) The defendants more often than not do not appear and are declared *ex parte*.

(b) The Evidence Act precludes civil courts to a great extent from going behind documentary evidence. It is well-known that the documentary evidence—pro-notes, bonds, mortgage deeds and the like—in cases relating to debt does not often represent the true case.

The principal is often not the loan actually paid; repayments are not noted in a regular and business-like way; no receipts are given; the interest actually charged is not always that recorded; no separate accounts are maintained for principal and interest and so on. The primary duty of a debt conciliation board is to go carefully into the history of every case and only then can it be equipped with the information necessary to effect a suitable compromise. If the board is bound to accept the facts recorded in documents, its activities and usefulness will be seriously curtailed. It is for this reason that I venture to suggest the insertion of the following clause, already adopted in the Bhavanagar State: "The board shall, notwithstanding anything contained in the Evidence Act or in any other law in force for the time being, have power, in order to inquire into and determine the real nature of any transaction between debtor and creditor, to admit evidence of any oral agreement or statement pertaining to such transaction, even though the transaction has been the subject of a written agreement." Such a clause may, at the first glance, appear startling and revolutionary; but none the less it is very necessary.

I am in entire agreement with the recommendation of the Agriculturists' Relief Committee in Mysore that debt conciliation boards should be guided by certain definite principles in arriving at the amount for which debts should be compounded. The Committee suggests that the following aspects should be considered by the boards in arriving at a decision and I quite agree with it, though the list may not be exhaustive:—

- (i) The amount of consideration actually received;
- (ii) the reasonableness or otherwise of the rates of interest contracted for;
- (iii) the amount of interest that has been allowed to accumulate;
- (iv) onerous conditions, if any, that have been complied with in the grant of loans; and
- (v) the repaying capacity of the debtor.

To these I would add the following:—

- (vi) Whether at any time the creditor was offered settlement of the debt in full or part and the offer was refused.
- (vii) The difference in value of the debtor's property and of staple food crops between the time when the debt was incurred and the time of settlement by the board.

I have been repeatedly told that before the depression and in its early years creditors were most unwilling to receive repayments of debts. They preferred them to accumulate. It is only now that they are anxious to draw in their loans. If a debtor did offer the creditor full or part repayment and the creditor refused or protested that there was no hurry about repayment, he has only himself to blame for the loan still remaining undischarged. In such cases, where there is definite evidence to

prove such offers and refusals, I suggest that the boards be given full powers to decree the debt as it stood when the offer was made and refused, disallowing all further accumulations.

The depression has brought down the value of land and prices of commodities to half what they were before. The value of money has doubled itself. If a creditor lent Rs. 1,000 in 1927, he has no doubt a legal claim to Rs. 1,000 plus interest now. But with Rs. 1,000 he can buy twice as much land or commodities, as he could have done in 1927. This consideration should be prominent before the boards when attempting to conciliate agricultural debt.

Clause 12.—No remarks.

Clause 13.—Those, who oppose this sort of legislation, express grave misgivings that the decrees of debt conciliation boards will prove infructuous in execution. From the little information that can be gathered about the working of the Central Provinces Debt Conciliation Act, No. II of 1933, we find that debtors and creditors have freely resorted to the boards appointed under the Act. The execution of the decrees passed by the board has not, I imagine, met with equal success. The main obstacle to such execution is the lack of ready money. I rather doubt if the Government will be willing to undertake the immense task of recovering the decree amounts from debtors as arrears of land revenue. That the collection of the ordinary land revenue is becoming increasingly difficult, as a result of the slump, is well known. Not only has much land to be attached and brought to sale, but a considerable amount is actually sold. If the land revenue demand is multiplied several times over, by adding the amounts not paid by debtors under the agreements, I am afraid, recovery by the Revenue department will become impossible. The bill further provides that, if the Collector is unable to recover the sums due from debtors, they shall be recoverable as if a decree of civil court had been passed. Such a procedure also strikes me as most undesirable, except as a last resort; for it will also lead to the transfer of much land from debtor to creditor.

My suggestions are—

Conciliation can be started on the understanding that the debtor pays the creditor the sum settled upon, either immediately or in instalments spread over a convenient period. If the creditor does not agree to conciliation on these conditions, the Government may lend as *takavi* loans to the debtors the amounts agreed upon. The money can be paid direct to the creditors and Government can become the creditors. Of course, such a course is only possible if the debtor has sufficient security to offer. Sums up to about Rs. 500 in each case may be found in this way. Payment of bigger settled debts should be undertaken by co-operative societies and land mortgage banks. If the Government find it impossible to lend out even small sums as *takavi* loans, I suggest that payment of all settled debts where adequate security is forthcoming be undertaken

by the co-operative societies and land mortgage banks. Such a course is possible only by a great expansion of these institutions. This aspect of the question, together with suggestions for strengthening and consolidating the co-operative movement, will be taken up again later.

When a conciliation board has succeeded in effecting a compromise, it may furnish the debtor with a certificate clearly stating the decree amount and the security at the command of the debtor. The board can further state in the certificate its opinion that the debt can be paid by the Government or by a co-operative society or by a land mortgage bank according to the circumstances. This certificate will enable the debtor to apply for a loan to the Government, a co-operative society or a land mortgage bank as the case may be.

In the case of persons whose immovable assets do not afford the margin of security required by the Government, by co-operative societies or by land mortgage banks, the only relief that can be given to the solvent (those with adequate earning capacity) is to permit them to pay in instalments spread over fairly long periods, if a co-operative society cannot be persuaded to lend on personal or joint security. This is possible only if creditors agree. Such debtors can be provided with certificates of their debt obligations. If they fail to abide by the terms of their agreements and make default in payment, the machinery of the land revenue department and of civil courts can be invoked as a last resort to execute the decrees.

There will still remain a class of debtors, whose assets and earning capacity, cannot possibly serve to clear off even their conciliated debts. Such agriculturists, I submit, should be given a chance of starting afresh in life, instead of being kept in perpetual bondage of steadily mounting debt. Their only chance of being saved is for them to surrender all their assets to their creditors and to become adjudged as insolvents. I agree with the Mysore Committee that this method is the only chance they have of getting out of their difficulties. I venture to suggest that the application for insolvency on behalf of such debtors be made by the debt conciliation boards themselves. I suggest that, in such cases, the limit of Rs. 500, found in section 9 (1) of the Provincial Insolvency Act V of 1920, be considerably reduced and the courts having jurisdiction be empowered to deal with the debtor's estate in a summary manner, even though the value of the property may exceed Rs. 500. These provisions may be enacted as amendments to Madras Act V of 1920.

Clause 14.—No remarks.

Clause 15.—This clause provides that, if the creditor refuses to come to an agreeable settlement, the board *may*, if it is of opinion that the debtor has made the creditor a fair and reasonable offer, grant the debtor a certificate. I suggest that this clause be mandatory and that the word *shall* be substituted for the word *may*.

I have no further remarks to offer on the Bill.

Such legislation is an experimental measure and it is difficult to predict what fruit it will bear. One province has started it and nearly all the others are going to begin. In the Bhavanagar State, a scheme of more or less compulsory debt conciliation has been carried out and a debt of about Rs. 86 lakhs is reported to have been scaled down to Rs. 20 lakhs and the whole amount paid off by the State Government. In the Central Provinces, six conciliation boards are reported to be working and, till August 1934, they are reported to have reduced debts amounting to Rs. 28 lakhs to Rs. 16 lakhs. Mr. Ramalingam Chettiyar himself states as regards his Bill: "I do not propose any great panacea for saving the ryot. I do not suggest that all the ryots, the moment the Bill is passed, will be free from debts or will have a clean slate or their position will be improved very much. The scope of the Bill is very modest. It only brings into existence a machinery to bring together the creditor and the debtor and make them agree and adjust their debts. It does not propose to do anything more." The time is ripe I believe for such a measure. The creditor is just as anxious to come to a settlement as the debtor. Both will welcome such a measure, provided the integrity of conciliation boards is of a high and unswerving standard. Such a measure will save the parties both money and time. It will engender mutual good will and understanding, instead of the bad feeling created by civil litigation. It gives the co-operative movement and the land mortgage banks a splendid opportunity to get into closer touch with the masses and of helping them substantially.

I am not in a position to estimate even roughly the proportion of agriculturists who are solvent and the proportion of those who are insolvent. I cannot say how many can be saved and how many cannot be saved without resort to drastic methods. These details can only be found out as the cases come up one by one. The measure for debt conciliation is well worth trying. There will be no lack of applications and I have no doubt that many creditors will be ready and willing to meet debtors half-way. If only the money can be found to pay off the conciliated debts of at least the really solvent ryots, one can with certainty predict that the measure will be a success. It cannot do much harm and it aims at helping, to some extent at least, the small and medium landholders as well as tenants and labourers. These form the bulk of the agriculturist population and incidentally of the total population in this province.

60. *Legislation restricting the alienation of land.*—Many of the replies received by me in response to my questionnaire are full of this subject. Representations are to the effect, that—

(i) the small and medium owner-cultivators are rapidly losing their holdings and hence.

(ii) there should be a law preventing expropriation of such by non-agriculturists,

(iii) even if such a law is impracticable, every agriculturist should be permitted by law to retain at least some land sufficient to form an economic holding, such a minimum amount being inalienable and therefore exempt from attachment or sale.

In this province, excepting the Agency tracts, no restriction is imposed upon the alienability of ryotwari land. I am emphatically opposed to a Land Alienation Act for Madras, for the following reasons:—

(i) There are no distinct tribes in this province, outside the Agency, who can be termed *agriculturists* as opposed to *non-agriculturists*.

(ii) It will immediately be followed by a marked depression in the value of land.

(iii) The majority of agriculturists in this province are landless, or have very small holdings which cannot be classed as economic holdings. Such an Act is not going to give them more land.

(iv) It will make consolidation of holdings almost impossible.

(v) It will hamper agricultural progress by weakening those it seeks to protect.

(vi) It must be admitted that there are many agriculturists, who have by their own fault forfeited the right to hold land. They have grossly neglected their holdings and squandered their profits and their borrowings on unproductive purposes. Nothing but good can come from the land passing from such incorrigibles to those who are better equipped by character and finance to cultivate such holdings properly.

I have been repeatedly told that the Punjab owes much of its prosperity to its Land Alienation Act. The conditions in the Punjab are different to those in our province. Besides, it is an open question whether the Punjab Act has been of real benefit to agriculturists in that province. Mr. Darling is in favour of excluding some tracts from its operation. I am told that there are many well-wishers of the agriculturists in the Punjab and there are even agriculturists themselves who are anxious for its repeal.

61. *Regulation of accounts.*—The Punjab Regulation of Accounts Act of 1931 was the first of its kind in British India. It “obliges all persons, whether money-lenders or shopkeepers, who advance loans in money or in kind at interest to keep an account for each debtor and to send him every six months a signed statement of the account, distinguishing between principal and interest and detailing all the loan transactions of the past six months. If a separate account is not maintained for a debtor, the creditor on suing him is liable to lose his interest, and will in any case not be awarded his costs.”

The measures for debt conciliation proposed in the previous chapter are not intended to drive away credit. They certainly will not drive away the honest money-lender. What

we want is systematised credit, operating in a business-like way and, for this, a Bill similar to the Punjab Regulation of Accounts Act of 1931 is necessary. A similar Act has recently received the assent of the Governor-General. It is Madras Act VII of 1935. I suggest that it should be brought prominently to the notice of the public at an early date, and that the attention of all Civil Judges should be drawn to its provisions. Section 3 provides that every creditor shall maintain regular accounts and shall give receipts to his clients for all repayments. I suggest that the creditor should be made to render a full and complete statement of accounts to each of his debtors once in six months showing the total interest and principal due separately and all the transactions relating to the loan which transpired in the previous six months. This provision is found in the Punjab Act. In the Madras Act, the creditor has to render a statement of accounts to his debtor, only if the latter asks for it in writing. This, I submit, is not enough. The lethargy and indifference of the average Indian peasant are notorious. Again in section 6 (1) of the Madras Act, I suggest an amendment to the effect that, if the court finds that a creditor has failed to maintain proper accounts, he will not only be refused his costs, but will also be disallowed interest from the date on which accounts ceased to be correctly maintained. In section 6 (2) of the Act, I suggest that the penalty for not giving a receipt or not furnishing a statement of accounts to the debtor should be loss not only of interest, but also of costs.

62. *Registration of money-lenders.*—I now come to a most important recommendation which I believe will be of the greatest importance and will lead to the great advantage of debtors and honest creditors—I mean the compulsory registration of money-lenders of all classes. I can think of no serious objection to such a measure, provided only those who make a regular business of money-lending are compelled to register themselves.

Such a measure will be welcomed by honest creditors, as it will drive out their undesirable rivals, the unscrupulous and dishonest lenders. Lawyers and members of the legal profession are compelled to register themselves. The operations of money-lenders are as extensive and far-reaching as the practice of law or of medicine. The money-lenders, who will object to compulsory registration, will be the undesirables, whose transactions cannot bear the light of day. It is all to the good that such be weeded out. I cannot see how this sort of registration can possibly be evaded. Provision should be made that no money-lender who has failed to register himself can claim costs or interest above 6 per cent in a court of law. If such penalties are found to be ineffective in practice, more rigorous ones may be imposed after some experience is gained.

If my recommendation finds favour, as I hope it will, the District Collector may be made the registering authority and a suitable

fee may be charged for registration and for annual renewal of licence. The Collector should be given powers to refuse the grant or renewal of licences, or to suspend them if he is satisfied that the money-lender (i) has not maintained regular accounts and passed receipts regularly as required under Madras Act No. VII of 1935, or (ii) has made an entry relating to a loan in any document, showing amount of the sum advanced to be in excess of that actually advanced, plus legitimate expenses incurred; or (iii) has charged compound interest with periods of rest which are less than three years.

63. *Jurisdiction of civil courts.*—The legislative remedies I have recommended do not, I submit, preclude a creditor seeking redress in a civil court of law. There is a strong feeling that the work of civil courts should be considerably speeded up. The law relating to debts can be improved with advantage. This is admitted by several District Judges. As one of them observes, "In my experience, the parties who agree to pay usurious rates do so willingly for the time being, and have to be protected like drunkards, drug addicts and prostitutes, in their own interests."

* 64. *The Usurious Loans Act X of 1918.*—I have attempted, in paragraph 51, to show from figures furnished by District Judges that the Usurious Loans Act is not being uniformly applied and is resorted to but rarely. The greatest diversity is noticed from court to court in the interest awarded by the application of this Act. No doubt some of the differences in the interest eventually awarded can be explained by the peculiarities of the facts elicited; but I submit that the Act does not lead to more regular results, chiefly because it is vague and also has not been brought prominently to the notice of all judges.

There has been great controversy as to whether law should fix the maximum interest, which a money-lender is permitted to charge an agriculturist. The chief objections to such a course are—

(i) the ease with which money-lenders can evade such enactments, and

(ii) the likelihood that, it will not only lead to greater resort being had to questionable practices, but that also legitimate credit may be frightened away. No doubt, as I have pointed out, the return from agriculture devoted to the raising of staple crops varies only from 2 to 6 per cent. But returns from special crops like sugarcane and cotton are normally higher. If at all the maximum interest is to be fixed, it should be pitched at a much higher rate than that which should be normally charged. While I am, therefore, definitely against the fixing by law of the maximum rate of interest, I am emphatically of opinion that agriculturists cannot possibly bear the strain of being financed at compound rates of interest. I would therefore urge that all compound interest on loans to agriculturists may be held

to be usurious and that courts should award only simple interest in such cases. A suitable amendment to the Usurious Loans Act to this effect is desirable. The following further minor amendments to section 3 of this Act are also recommended: for the word *and* in clause (a) of sub-section (1), the word *or* should be substituted; and the word *may* where it appears for the first time in sub-section (1) should be replaced by the word *shall*.

I am strongly in favour of a direction by the High Court of Judicature to all Civil Judges to use the Usurious Loans Act with greater regularity and precision. Such a direction may set out the position of agriculturists and of the agricultural industry and give specific instructions how effectively to apply the Act in order that this industry may not suffer. I would even suggest that such a direction may clearly indicate the maximum rates of interest that should be allowed under different circumstances. I trust that, if such a direction is issued, the maximum may be fixed with the greatest care, so as not to cripple the agricultural industry, or frighten away legitimate and reasonable credit by money-lenders. Such a direction may clearly lay down that the fact, that the defendant fails to appear and is declared *ex parte*, should not be a bar to the application of the Usurious Loans Act.

65. *Damdapat.*—I recommend the introduction of this ancient and equitable rule of Hindu law into this province. Provisions on the following lines may be enacted:—

(i) In any suit brought after the commencement of this Act against a debtor for the recovery of a loan borrowed before the commencement of this Act, no court shall grant a decree in satisfaction both of principal and interest for a larger sum than twice the amount which the court finds to have been due at the commencement of this Act.

(ii) In any suit brought against a debtor for the recovery of a loan borrowed after the commencement of this Act, no court shall pass a decree for a larger sum than twice the amount of the sum taken as principal.

These provisions follow those found in the Bill recently passed in the Punjab Legislative Council. The objects of this remedy may be summed up as follows:—

(i) It will prevent money-lenders from waiting years and years without demanding repayment, as many do at present with a view to appropriating all the property of their clients.

(ii) It will prevent borrowers and their descendants from remaining in false security without realizing their growing liabilities.

(iii) The "absurd spectacle of a creditor knocking away the entire property of an agriculturist for a portion of his debt and then applying for a warrant of arrest will largely disappear."

66. *Prevention of fraud.*—I suggest that the law should make provision to penalize the common practice among money-lenders of

taking a promissory note or other document for a larger sum than is actually lent. If such is found to the satisfaction of the court and the court is convinced that there was fraudulent intent, I suggest that the whole suit be dismissed with costs without any decree even in part. This will be a deterrent provision against such frauds. It will build up public opinion against such practices, even if it does not do anything else.

67. *The Code of Civil Procedure.*—I suggest amendments on the following lines to the Code of Civil Procedure and other relevant Acts:—

(i) Sub-clause (3), of rule 2, in order XXI, of the Code of Civil Procedure may be omitted.

(ii) In the direction by the High Court recommended by me as regards the Usurious Loans Act, the attention of Civil Judges may be drawn to rule 11 of order XX of the Code, and they may be advised to apply the rule with greater frequency and sympathy to agricultural debtors. I propose that, if the circumstances of the case permits, an agricultural debtor may be ordered to repay his loans in small instalments of not less than Rs. 20.

(iii) In no case should a mortgagor be entitled to more than the mortgaged property in full satisfaction of his entire dues, except costs.

(iv) Properties of sureties ought to be sold only after the properties of the principal debtor are exhausted. Sometimes, the money-lender, colluding with the principal, proceeds only against sureties, thus ruining these often overtrustful individuals. Such a rule will help to put down reckless lending.

(v) A decree-holder should not be permitted to purchase the property of the judgment-debtor, except for a reasonable value to be fixed by the court after due enquiry. The absence of such a provision too often leads to the decree-holder buying in the properties for far less than they are really worth.

If all the measures relating to civil courts I have recommended are adopted and disposals are quickened, there will be immense relief to the parties concerned, especially debtor agriculturists; and, I am sure, the honest creditor will welcome such provisions, as they do not unjustly or unduly curtail his rights.

68. *Civil Jail.*—I am not concerned with the numerous reasons for and against detention in civil jail. I would, however, strongly recommend the abolition of civil imprisonment for this one reason alone, that it will stop future wild and reckless lending without proper security. Money-lenders are free with their money to clients, who have neither the property nor the earning power to repay their debts, because they can always put the debtor into prison, thereby forcing his friends and relations to come to his rescue. Such wild lending must be put a stop to, both in the interests of borrowers as well as lenders.

CHAPTER VII—THE DEPARTMENTS OF AGRICULTURE AND INDUSTRIES AND THE CIVIL VETERINARY DEPARTMENT.

69. Relief from the burden of standing debt and the provision of cheap credit no doubt will help the ryot considerably and so are very essential. But these remedies cannot solve all his difficulties; hence, measures for increasing his profits and cutting down his expenses are equally if not more important. As a layman, I find it a difficult and delicate task to suggest remedies regarding the departments to which this and subsequent chapters are devoted. My general impressions and suggestions are respectfully offered for what they are worth, and I trust they will not be taken amiss as being irrelevant running comments on the working of departments of Government. I submit that the remedies and criticisms I offer as regards these departments are all of them quite relevant to this report and definitely fall within my terms of reference, as they are calculated to improve the economic position of the agriculturist and, therefore, to put him in a better position to repay his present debts and to avoid becoming indebted in the future.

70. *The department of Agriculture.*—This department has made great strides, especially in the last three years. It has helped many ryots to improve their methods of cultivation, adopt more paying crops and consequently increase their outturns and profits. The conservatism and obstinacy of the peasant population in adhering to their old crude ways are often enough difficult indeed to break through. I venture to suggest ways and means of achieving better results:—

(i) No amount of agricultural research can benefit the farmer unless the agencies for propaganda and demonstration are adequate. I submit that a single demonstrator for a taluk cannot possibly be enough. Hundreds of ryots have told me that they have never been approached by officers of the Agricultural department, and they are perfectly willing to try out new implements and methods, provided such are demonstrated to them as being within their means and of real benefit. There should be at least one demonstrator for each revenue firka and each demonstrator should have two to three *maistries* working under him. There are on an average, more than a hundred villages in a taluk. The present meagre staff cannot possibly be expected to get into adequate touch with these villages. Every taluk has about five to ten geographically natural centres where produce from surrounding villages is brought for marketing. These are the marketing centres, which should form the bases for agricultural education and help. There should be a depot at every centre with, if possible, a small farm of two or three acres.

(ii) In imparting agricultural knowledge, care should be taken not to antagonise the people. After all, in spite of his conservatism, the Indian farmer has the experience of centuries behind him, especially in the cultivation of staple food crops. Often

enough, it is poverty and not lack of enterprise, which compels him to adhere to his cheap and inadequate methods. Too often are demonstrators prone to forget this important fact and in consequence are inclined to preach the adoption of improvements which are not within the means of the small farmer. As an eminent economist rightly observes, "in connexion with agriculture, we must be careful of two things. First, we must not ostentatiously tell the native husbandmen to do things which they have been doing for centuries. Second, we must not tell them to do things which they can't do and have no means of doing." No amount of propaganda to introduce such expensive appliances as motor tractors will be of avail, as the ryot cannot afford them. It is folly to my mind to try and teach the Indian agriculturist his own trade in raising staple food crops by means of steam ploughs and the extensive use of expensive ammonia manures. These may be possible for paying industrial crops, but not for paddy, cholam or ragi. Lord Mayo, in 1870, realized the limit within which the Agricultural department should work with regard to the small landholder; he said: "I do not know what is precisely meant by ammoniac manure. If it means guano, superphosphate or any other artificial product of that kind, we might as well ask the people of India to manure their ground with champagne."

(iii) If it is not advisable to preach the adoption of expensive and over-scientific methods for staple food crops, it is yet most essential to impress upon the ryot the need to improve his cultivation by simple and comparatively inexpensive ways such as the substitution of the light iron plough (capable of being drawn by the ordinary cattle of this country) for the wooden instrument, the substitution of good strains of seed for bad and cheap seed, wider spacing in transplanting, the proper conservation of farmyard and leaf manure, scientific rotation of crops, the growing of more fodder and manure crops, the introduction of commercial crops, fruit and flower growing, and the like. Large-scale farming, I fear, is not a practical possibility in this country for the majority of agriculturists. Our efforts at improving cultivation should be specially directed to benefit the small farmer. The general complaint against the Agricultural department is that its officers are prone to talk above the heads of the average ryot. When demonstrators and others are appealed to for real practical help, such help is not often forthcoming. Too often are ryots advised to invest in ploughs, which the weak cattle can never draw and, when this is pointed out, they are advised to purchase expensive cattle like the Ongole breed. Demonstrators make no real efforts to get at the small owner cultivator. They are far too inclined to forget that small farmers form the real backbone of the agricultural industry.

Cattle manure, I am told, is getting scarcer. Much of it is wasted by being used as fuel and as plastering for floors and walls.

Agricultural education should be specially directed against such waste. A great stride will be made if a formula is evolved for the making of an all-round cheap manure by the cultivator on his farm. As Dr. Mukerjee says, "there are abundant supplies of waste organic matter such as paddy husk, groundnut husk, sugarcane trash, grasses of various kinds and many other substances and it may be possible to bring about a similar fermentation of such materials as has been accomplished at Rothamsted in the preparation of artificial farmyard manure. An important source of soil renewal, within the means of the cultivator in many parts of India, is a compost made from all kinds of vegetable matter, wood ashes and a certain amount of cowdung after the manner in vogue in China and Japan." The Indian is prejudiced against night-soil as manure. I venture to submit that determined education in this direction is very necessary. The loss of valuable manurial products from wastage of night-soil is immense.

(iv) The demand for improved strains of seed is practically inexhaustible. I suggest that early steps be taken to increase the supply of good seed substantially and make it available in abundance at every agricultural depot.

(v) It is unnecessary to stress the great importance of popularizing commercial crops. Special efforts, I submit, should be made to increase fruit-growing. The market for fruit even in India is almost inexhaustible and the possibilities of tapping world markets for graft fruit are immense. Mere propaganda is insufficient. Every depot should stock a good supply of suitable graft and ordinary fruit and flower plants. I visited the garden of an enterprising lawyer at Kumbakonam. He is specialising in grafting and budding fruit and flower plants. He tells me that he is not able to supply the demand of the public for such plants, so great is it.

(vi) The number of demonstration plots and of demonstrations are quite inadequate. Especially important is demonstration for the manufacture of such products as cream jaggery. I venture to suggest that ryots should be encouraged to offer their lands to the Agricultural department for demonstration purposes, by granting them for these plots a remission of fifty to hundred per cent in land revenue according to circumstances.

(vii) Early steps should be taken to increase the stock of cattle at the disposal of the department. More farms at convenient centres like the one at Hosur are needed. Special attention should be devoted to popularize scientific cattle breeding. The people should be encouraged to have the small stunted bulls, seen wandering about the countryside, castrated to prevent indiscriminate breeding. The system of supplying stud bulls for service is meeting with much success and the supply may with advantage be greatly increased. I suggest that even more favourable terms be offered to those who undertake to maintain stud bulls for purposes of service. As far as possible, the department

may popularize goat and sheep rearing, which is a great source of subsidiary income to ryots, in spite of the fact that the Indian by temperament and training is largely vegetarian in his outlook. It is indeed a matter of deep regret that the number of sheep and goats is steadily decreasing in this presidency.

(viii) Two of the most profitable and yet inexpensive forms of subsidiary occupation are poultry and bee-keeping. The agricultural farms I visited are meeting with great success as regards the supply of eggs, and with quite appreciable results as regards the supply of bee-hives and swarms of bees. I suggest that every agricultural depot should have an adequate supply of good hatching eggs for poultry and bee-hives for sale and if possible a small stock of poultry and bee-swarms. A centrifugal hand-machine for extracting honey from the comb can be kept at each depot and employed for a small fee to extract the honey from combs brought in by ryots.

(ix) At present, the Agricultural department grants small *takkavi loans* for the purpose of agricultural implements alone. May I suggest that the work of granting such loans for all agricultural purposes, except relief of distress, be transferred from the Revenue department to the Agricultural department? The latter is specialized and ought to be better equipped to gauge the needs of ryots than the Revenue Department. I have already shown that *takkavi loans* form only one per cent of the total debt. There is scope for much expansion in Government aid. The following principles should be followed in granting loans for cultivation expenses and other productive purposes, either by the Government; or by co-operative societies:—

(a) *As far as possible, loans should be given in kind.* If they are required for seed, seed should be given; if for manure, manure; if for graft plants, plants; if for hulls, the hulls should be bought and given to the borrower; if for a well, the well can be had dug by the lending agency. By following this principle of giving loans as far as possible in kind, we can make reasonably certain that the loan is used strictly for productive purposes.

(b) Another principle to be followed in the grant of loans for cultivation expenses is to grant the loans in instalments and not to give the second or third instalment till it is made certain that the previous instalment has been used for the purpose for which it was taken.

(c) Finally, *all loans for cultivation expenses should be short-term loans which should be collected in full at the next harvest or, if the crop fails, at the next one to that.*

(x) The Agricultural department ought to pay as much attention to marketing as to the raising of crops. *As a general policy marketing ought to be clubbed with production and not with distribution.* At present, marketing is almost completely neglected. I suggest that every depot should be equipped with up-to-date marketing knowledge and should publish daily, or at least

weekly, price bulletins and other marketing information. The ryot needs nothing to much as accurate marketing news. He wants to be educated and helped in selling his produce at the best price available to those who will give him the best prices. Much can be done by the department in the way of bringing producer and retail merchants, as well as consumers, into closer and more amicable relationship. Wherever demonstrators have been deputed to help and run co-operative loan and sale societies, the societies have thriven. The department can give real help to such societies especially on the selling side. A marketing officer is now touring the presidency and his report is eagerly awaited by the people. If a loan and sale society is started and properly run in every agricultural centre referred to under item (i), the prosperity of the former will be materially enhanced.

(xi) Finally, I would strongly urge the starting of agricultural associations composed of officials and suitable non-officials throughout the presidency. Such associations should devote themselves, not only to propaganda and education by staging exhibitions and demonstrations, but should form the basis of co-operative agricultural societies for collective farming.

71. *The Department of Industries.*—A careful student of economic conditions in India will, I believe, agree with me in deploring the attitude taken by some that a tropical country like India with its rich agricultural resources ought not to turn from the cultivation of the soil and enter into competition with industrial countries. The satisfaction of the most elementary physical necessities exhausts the bulk of the income from the land, leaving hardly any margin for health, education and recreation. Agricultural income per head is steadily falling with the rapid increase in population. The surplus population must seek a means of livelihood other than agriculture; and industrialization is a natural outlet for this "imperious economic necessity." Such industrialization is not likely to affect agriculture in any undesirable way.

It is indeed gratifying to see the progress made by the Department of Industries, in spite of the slump. An active and progressive policy of State aid to industries is most necessary. As is observed in the Montague-Chelmsford report, "on all grounds, a forward policy in industrial development is urgently called for; not merely to give India economic stability, but in order to satisfy the aspirations of her people, who desire to see her stand before the world as a well-poised, up-to-date country; in order to provide an outlet for the energies of her young men who are otherwise drawn exclusively to Government service or to a few overstocked professions; in order that money now lying unproductive may be applied to the benefit of the whole community; and in order that the too spectacular and literary tendencies of thought may be bent to more practical ends."

I respectfully venture to offer the following suggestions, as regards the Department of Industries:—

(i) When helping by loans or other aid the starting and running of factories, no consideration should weigh against the giving of full and free permission to exploit all waste products. For instance, only certain sugar factories are permitted to exploit waste products while some others have not been permitted to do so. I submit that there can be no sound economic defence for such differential treatment. Such a loss of good material cannot but be a hardship to the country.

(ii) The possibilities of foreign and home markets need to be carefully explored and outlets found for the absorption of articles manufactured in India, particularly in cottage industries. The appointment by the Government of an Agent in London for the sale of the products of Madras cottage industries is a welcome move and great progress can be achieved by the appointment of active agents in other countries also. South India is famous for many of its cottage industries, and works of art and utility will surely find a ready market in Europe and America if they are properly advertised and exhibited. If the demand is assured, supply will naturally follow, especially if the Government help these industries by technical training and monetary aid. There is much scope for expansion of those cottage industries, which are not likely to meet with competition from machine-made articles. Propaganda and education in this direction are necessary, and labourers and small farmers have to be got at by establishing centres of activity, which can with profit be made to coincide with the agricultural centres referred to in the previous paragraph. The present staff of inspectors and demonstrators is inadequate.

(iii) Cottage industries have to be protected from the predatory activities of middlemen, as agriculture has to be protected. The predicament of weavers is a standing example of the strangle-hold of the employer; to combat middlemen, the department of industries should collaborate actively and on a large scale with the co-operative movement, in the formation and running of co-operative enterprises, such as weaving societies.

(iv) As regards the engineering section of the department, the Government have very rightly laid down that the claims to departmental plants of agriculturists and small-scale industrialists should have precedence over other interests. The plant available for boring wells can well be greatly increased as can the number of boring inspectors. The stock of instruments should be distributed, so as to be easily available at convenient centres scattered throughout the presidency. Little result can be expected if the department waits for applications. Active propaganda and highly favourable terms are required to persuade the ryots to have more bore wells put down; this specially applies to districts which are susceptible to famine.

72. *The Civil Veterinary department.*— I have not many remarks to offer as regards this department. In spite of the depression and the recommendations of the Retrenchment Committee, I strongly recommend a substantial increase in the number of veterinary institutions and of touring posts. The present staff is quite inadequate to meet the needs especially at the time of epidemics. Much avoidable expenditure has to be incurred by ryots in the purchase of cattle to replace those which have died owing to want of prompt and effective treatment. Unless veterinary aid is adequate, readily accessible and speedy, it cannot really benefit the rural areas.

When a case of contagious disease is reported from a village, it is essential for the veterinary staff to get there as quickly as possible. I would recommend that officers of this department should be given special travelling allowances with regard to mileage, etc. If bus fare only is allowed, an officer cannot usually get to a village before 10 or 11 a.m. when all the cattle are in the fields. All he can do then is to *advise* the villagers. To be of real use, the veterinary staff should be able to reach a village before 7 or 8 a.m. Only then can they *treat* sick cattle.

Finally, I would strongly recommend the opening of model dairies, not only at Madras, but also at other important centres.

CHAPTER VIII—THE CO-OPERATIVE MOVEMENT.

73. *Historical.*—The co-operative movement in India commenced with the Co-operative Credit Societies Act of 1904. That measure was incomplete and a second Act was passed in 1912. Several local acts came subsequently into force.

Great things were expected of the co-operative movement in India, on the analogy of its phenomenal success in Europe. It was hoped that co-operation would free the cultivator from the vicious system of credit from private money-lenders and emancipate him from the paralysing influences of ignorance, suspicion and fear, thus ultimately lifting the peasant on to a higher plane of culture and wealth. Mr. Wolff, who had much to do with the starting of the movement in India, observes in his *Peoples' banks*: "Throughout history there seems to have been a peculiar ban of failure attaching like a Pandora's curse, to those provident and charitable institutions which did not rest upon self-help."

The enthusiasm of the founders of the movement in India was unbounded. There followed from about 1917 to 1927 an era of expansion of the movement. Thousands of credit societies were registered, and money was lent out freely. The movement during these ten years was, however, perhaps marked by the following defects:—

(i) The expansion was much too rapid. The movement in its infancy had been encouraged to run, even before it had been taught to walk.

(ii) The people of India were too ignorant, uneducated and wanting in civic spirit to assimilate easily the real principles of co-operation.

(iii) A vigorous policy of de-officialization was adopted, and it was bound to fail at such an early stage, as the people had not developed yet, as in the West, the public spirit to understand, nor the knowledge to perform, the duties entrusted to them. Selfish motives and personal interests were therefore given free play in a movement, which could only thrive in an atmosphere of mutual goodwill, untainted by greed, jealousy or prejudice.

(iv) Far too much attention was paid to the credit side of the movement, and the non-credit side was almost completely neglected so that it nearly became all credit and no co-operation.

The inevitable reaction followed; co-operators realized at the end of these ten years of reckless expansion that they had gone too far, and from 1927 the policy of the department had necessarily to undergo a fundamental change. Enthusiasm was damped, a halt in expansion was called, and stock was taken of the results so far achieved. The position was found to be depressing indeed. Thousands of societies were found dormant or unsound; overdues were alarming, and the percentage of the people, who were really helped by the movement, was insignificant. Then came the great economic depression, and money became scarce. Overdues leapt up, hundreds of societies had to be wound up every year, prosecutions for fraud were common, and the department had all its work cut out to keep the movement alive by the consolidation of existing societies which promised well, the liquidation of the bad ones, and a ruthless policy of arbitration and execution. The wonder is that the movement has weathered the depression as well it has done. In only one province, Burma, has it more or less collapsed. That such a fate has not happened to it also in Madras and the other provinces is a matter for congratulation. It behoves us therefore to take careful stock of the present situation. Co-operation, it is agreed, is the one real panacea for the difficulties of the peasant. We have, without fear or favour, to face its numerous defects, to eliminate all its bad elements and to adopt a bold, clear, well-planned and comprehensive policy for the future. I consulted many people on this important subject—co-operators, officials, ryots and labourers. I visited a large number of co-operative institutions. The views I express and the remedies I suggest, are those which find favour with the majority. Such a big subject could not be studied thoroughly in a few months, and I hope I shall be forgiven if this chapter is not as thorough and complete as it ought to be.

74. *Officialization versus non-official control.*—I am afraid I have no information as to the extent of Government control over the co-operative movement in other countries; but

here, in India, there are co-operative departments of Government which exercise considerable control. The main functions of the department, apart from acting as a guide and adviser, are as follows:—

- (i) Registration.
- (ii) Audit.
- (iii) Arbitration and execution.
- (iv) Liquidation.

Primary societies and banks are run by pan-chayats elected by members. The supervision is in the hands of non-officials. There is therefore dual control, audit being done by Government and supervision by non-officials. Much controversy has been raging of late over the merits of greater officialization, as against the vesting of more responsibility in non-officials. I am told, and what I have seen clearly indicates, that there is a school of non-official co-operators, which stands for de-officialization and exercises a dominating voice in the affairs of this movement. There is a disinclination to offend this body by word or deed, and many are unwilling openly to question its views, though ready enough to criticize in confidence. Such reluctance to offend has, I fear, led to much "whitewashing" of the defects of the movement. But, if the movement is to be saved and is to be of real benefit to the masses, facts however unpleasant or uncomplimentary, must be squarely faced. This has been done in several provinces of late. The report on co-operative societies in Mysore for 1933-34 is one which, in its honest exposition of the real situation, can well be taken as an excellent example to follow. It certainly cannot be denied that most of the capital in the movement is supplied by the public. If the elective method ensures that those returned to office are the genuine representatives of the people who furnish the credit, then there may possibly be some claim for more de-officialization. But, I respectfully venture to suggest that many of those in office, who are so vehement against official control, are not often the mouth-pieces of those who have supplied the credit. Too often are these so-called leaders of the co-operative movement led away by mere theories and influenced by motives which, to say the least, are mixed. If the public supplies the capital for the movement, the Government supply certain amenities which are quite essential. Stamp fees are not levied, registration fees are halved, and the vigilance and help of officials of the Co-operative department are invaluable and indispensable. I would like to see what those non-officials, who are always hungering for more control, would say if Government suddenly lost all interest in the movement and decided to withdraw completely. If this were done, the movement would most assuredly degenerate into chaos and early collapse.

75. *Supervision and audit.*—Supervision of primary credit societies has been relegated to non-officials now for about fifteen years. What has this done for the movement? I can say with confidence that the history of the

supervising unions in this Presidency at least is nothing but a tale of woe. Managing bodies of unions are composed mostly of representatives of primary societies. The main object of a supervising union is to keep a close watch on the work of granting loans in primary societies, verify loan applications, see to the preparation of property statements, and bring to light by periodic and frequent inspections all defects in the running of such societies. I cannot understand how the present unions can possibly discharge such duties satisfactorily. They cannot be independent and disinterested bodies, as they are run mostly by representatives of the very societies, which have to be supervised. Is it any wonder then that the supervisor is often forced, if he is to keep his job, to collude with the managements of credit societies in all their misdemeanours? The supervisor dares not expose the bad working of such societies, for his hands are tied from the beginning. If he is honest and does his work thoroughly and brings to light various defects and fraudulent acts, he is certain to be given speedy notice to quit. So, he carefully glosses over mistakes and shady transactions. He even colludes sometimes with shady office-bearers of primary societies and helps them in their efforts to obtain money for themselves and their friends by illegitimate means. It is common knowledge that property statements of co-operative societies are about the most unreliable documents that can ever be found. Supervisors must first be trained men of good character. They then have to be controlled properly by a disinterested and independent agency. Financing banks are not suited for such control. They also cannot be said to be entirely disinterested. They are not equipped with sufficient staff to exercise adequate supervision. Most important of all, they have not the experience to run proper supervision. *As long, therefore, as supervision is allowed to run its present fatuous and irresponsible course, there can be no hope for the co-operative movement. The only feasible remedy seems to me to be the transfer of the entire work of supervision to the Co-operative department.* Of what use can audit by the department be, while supervision is in other hands? Such dual control can never work. After all, audit is done only once in six months. In six months much can happen. Unless societies are supervised from their very inception with scrupulous care month by month and more often if necessary, unless defects are rigorously brought to light and immediately rectified, and unless undesirable and unscrupulous office-bearers are ruthlessly removed from office and prosecuted if necessary, what good results can be expected? Audit reports are generally relegated to waste paper baskets, sometimes without even being read. This is what an experienced gentleman, *with no axe to grind*, says on this subject of supervision and audit: "While a searching audit is efficacious with regard to the recurrence of irregularities, it is best to remember its short-comings. Audit is in respect of accounts and transactions already

over and is like the proverbial closing of the stable after the horse has run away. A man may run away with a cash balance of Rupees 2,000, or create fictitious bonds or pass bogus resolutions. The auditor makes a catalogue of these defects and the summary of defects is communicated to the union and the bank for rectification. He goes there again six months afterwards, discovers the same defects or same kinds of defects, feels a little depressed that nothing has been done to rectify the old defects and again submits a summary. This process is going on endlessly. The Deputy Registrar takes action if serious defects are noted, but he notes the same irregularities in all societies and feels awfully depressed. There is nothing to choose between one society and another, between one union and another, and between one district and another. Changes in the personnel of the district officers, introduction of tried officials of the Revenue department, all have had no effect. What exactly is the cause in all the districts? Human nature is of course common and some of the defects will continue. But to my mind the most potent cause is the parallel non-official machinery of administration. If there should be a parallel Police non-official department with very lax standards of discipline and responsibility, will it be complacently welcomed? In this case, day-to-day administration of societies is practically under the supervisor and the union. The union governing body members are honorary men with no leisure and little knowledge of the intricate working of societies. The diaries of the supervisors are rarely scrutinized, their tour programmes are not properly checked and very rarely is the supervisor even lightly admonished for bad work. At the same time, the supervisor is left to himself; he keeps the union office in disorder, never reads the circulars and shows gross negligence. Any attempt on the part of the financing bank to transfer the supervisor is resented, while recommendations are made to enhance his pay or travelling allowance. Now at the bank itself, there is one clerk to check the diaries of the supervisors, and the executive officer's hands are full. The executive officer is after all a junior inspector and is not fitted to control a big staff. Thus virtually the non-official staff is left unquestioned and uncontrolled. My remedy for this is the immediate transfer of this staff to the control of the department. The Registrar shall appoint and dismiss these supervisors while the Deputy Registrars will control them. It may be argued that these have enough work already. The present work of liquidation is heavy because of want of control over persons who have allowed the societies to go to ruin. It is just like allowing a town to be infected with plague and then resorting to remedial measures. At this rate, the department will have to increase the liquidation staff indefinitely, and more and more the Deputy Registrar's time will be taken with prosecutions and liquidation. It is time that we turn to the preventive side and stop the rot."

I am well aware of the fact that the recommendation given above will raise a storm of protest from a certain non-official section. It will be condemned as a retrograde step and an insidious attempt at unnecessary governmental interference in an essentially democratic movement. I can assure the Government that all those who really count will welcome such a remedy. In fact, it has long been overdue and I hope and trust that the Government will see their way to adopt it as soon as possible in its entirety. There can be no half-way house in such a case. As an example of honest public opinion on this very important question I give below an extract from an article which recently appeared in the *Hindu*: "In many cases, the institutions have been captured by the worst representatives of societies who, by getting themselves elected from them to the directorate of the financing bank, are proving a menace to the safety of the bank by standing in the way of all sound proposals and being also otherwise obstructive. These men, who are generally in the majority, naturally take care to see that men of their own feather are associated with them, both in the supervising unions and in the financing bank; and, as against these persons, there is no chance of the right type of men entering supervising unions or financing banks. The position has been rendered worse in some financing banks by the election of representatives of individual shareholders to the directorate being left to the general body of the bank, instead of to the individual shareholders themselves, as was the case for a long time past. In the agricultural societies, the good and solvent members, partly unwilling to submit themselves to the whims and caprices of the members of the governing body of supervising unions and partly out of fear of sharing their unlimited liability with the growing number of insolvent members and members with no repaying capacity, have gradually fallen off. The limited liability societies such as urban banks, the representatives of which mainly constituted the brain of the supervising union, have in many places got themselves disaffiliated from the union, on the ground that they require no supervision and that they cannot afford to pay both supervision fees to the union

and audit fees to the Government. It may therefore be stated without fear of contradiction that the whole movement is now greatly in the hands of unsatisfactory men, who are exploiting the several institutions under it for the purpose of self-aggrandizement or selfish gain or for serving their political or other ends.

That every one of the above statements is true will be borne out by all unflinching co-operators, who are in the real know of things, and by the various observations of the Registrar contained in the Presidency Administration reports of recent years. Almost all the Registrars have been unanimous in generally condemning the work of supervising unions as unsatisfactory. They suggested from time to time several ways of improving them, not understanding that the real cause of the failure of the unions was due to the non-realization of the natural fact that the debtors or a body of them especially with no repaying capacity and faced with economic distress as at present are unsuited to supervise their own affairs, much less protect the interest of the creditor bank."

The moment supervision is taken over by the department, confidence in the movement will be restored. It will attract honest and upright men, who are now hanging back because of the sorry reputation which the movement has with the general public; a great volume of money will be attracted into it; and I believe that the Imperial Bank will again be willing to tender the help it withdrew, because, as the Managing Governor of the Imperial Bank observes, "the fundamental principle of true co-operation is lacking. Overdues are highly excessive. Audit is defective. Control is inefficient." My recommendation to officialize supervision is not, of course, intended to be taken as a permanent remedy. As the public advances in the true spirit of co-operation, it can gradually be given back responsibility.

76. *Co-operative credit societies.*—The following statement exhibits the strength and position of agricultural credit societies in the last ten years:—

STATEMENT No. 22.—Agricultural Credit Societies.

[Items (8) to (11) are given in lakhs of rupees.]

	1924-25.	1925-26.	1926-27.	1927-28.	1928-29.	1929-30.	1930-31.	1931-32.	1932-33.	1933-34.
1 Number of credit societies ..	9,164	9,822	11,000	11,966	12,382	12,540	12,439	12,080	11,623	11,348
2 Total number of members ..	487,431	523,594	593,315	680,298	652,285	674,590	676,009	638,629	593,374	562,541
3 Paid-up share capital ..	42-91	48-91	58-37	67-56	74-57	80-66	85-24	78-37	72-75	67-95
4 Deposits by members ..	7-01	6-60	7-14	8-16	9-38	9-72	9-60	10-03	10-27	10-59
5 Deposits by non-members ..	9-22	10-11	12-68	16-66	21-81	21-98	25-84	23-55	24-97	26-99
6 Loans from financing banks and other societies ..	274-78	303-25	375-80	458-64	481-91	494-70	474-55	404-25	356-52	331-91
7 Loans from Government ..	4-48	6-14	8-12	9-65	10-32	10-21	10-87	8-98	8-43	8-80
8 Reserve Fund ..	19-07	22-35	27-41	23-13	39-47	46-89	54-20	58-31	62-79	67-18
9 Total working capital ..	358-07	398-23	489-52	573-80	617-46	664-16	658-30	583-37	535-73	510-42
10 Net profit ..	5-73	6-68	9-28	9-70	12-88	11-51	8-08	6-69	9-74	8-83
11 Loss ..	..	..	..	..	..	..	..	22-79	25-83	24-98

The following statement exhibits the steady increase in overdues in the last ten years:—

STATEMENT No. 23.—Showing the percentage of balance to demand under principal, arrear interest and current interest of agricultural credit societies.

Year.	Demand under principal in the year.	Amount overdue.	Percentage of columns (3) to (2).	Interest overdue at the end of the previous year.	Interest overdue at the end of the year of the amount in column (5).	Percentage of columns (6) to (5).	Interest accrued and fallen due during the year.	Balance overdue at the end of the year out of the amount in column (5).	Percentage of columns (9) to (8).
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
	RUPES IN LAKHS.	RUPES IN LAKHS.		RUPES IN LAKHS.	RUPES IN LAKHS.		RUPES IN LAKHS.	RUPES IN LAKHS.	
1924-25	201.57	84.56	41.95	15.36	7.00	45.48	32.08	11.40	35.83
1925-26	233.57	107.79	46.15	19.45	10.48	53.87	30.82	14.78	34.23
1926-27	265.63	121.30	45.66	25.04	13.49	53.88	30.78	16.43	41.34
1927-28	316.74	135.58	42.81	30.17	17.22	57.08	47.85	17.58	36.70
1928-29	361.12	147.73	40.90	35.09	19.33	55.08	55.09	19.09	35.70
1929-30	379.72	176.24	47.00	38.00	22.47	59.00	58.45	25.35	30.00
1930-31	427.30	254.52	59.56	46.96	30.62	65.20	62.75	31.35	49.91
1931-32	436.88	275.74	63.11	61.54	38.31	62.25	60.43	31.20	51.77
1932-33	391.42	264.41	67.55	68.09	44.87	65.89	54.01	32.22	59.65
1933-34	356.24	251.24	70.71	74.76	52.62	70.39	48.54	31.11	64.10

The following statement shows how co-operative credit societies have been classified in the last six years:—

STATEMENT No. 24.—Classification of Co-operative Credit Societies.

Classification.	1927-28.	1928-29.	1929-30.	1930-31.	1931-32.	1932-33.
A Thoroughly good societies	260	471	426	368	348	306
B Societies with some defaulters and some mistakes in accounts	1,726	2,343	2,328	2,311	2,081	1,832
C All other societies that do not come under class D.	8,155	9,135	9,100	9,016	8,951	8,607
D Bad societies which probably have to be liquidated should they fail to come under class C within two years	1,264	1,587	1,509	1,785	1,718	1,982
Number of societies in which collections were—						
95 per cent	1,406	1,619	1,491	935	662	604
70 Do.	1,393	1,816	1,791	1,307	1,159	970
55 Do.	941	1,007	1,012	935	847	687
40 Do.	1,040	1,003	1,121	920	967	759
Below 40 per cent	3,677	3,838	3,796	4,047	3,701	4,119
Dormant societies	1,781	3,223	3,565	3,829	5,447	5,308
Societies in which no loans fell due	1,167	980	647	452	225	180

The position as regards overdues is getting worse every day. Good societies are steadily decreasing, while bad ones are on the increase. Losses are heavy, while profits are dwindling. The total number of credit societies and members have been steadily decreasing since 1928. This is because since 1928 the department has concentrated almost entirely upon consolidation of existing promising societies and the dissolution of the bad. The only encouraging sign is that, as a result of strong Government action, the reserve fund is gradually increasing.

The co-operative movement has lent out only about 6 per cent of the total agricultural debt. There are reasons to suspect that even this proportion is too high an estimate of the genuine loans that were given to really needy peasants. *Benami* transactions are by no means scarce. In many societies, the secretary, or president, or both, are men who wield great influence and completely dominate the remaining panchayatdars. Such influential men unfortunately often enter the movement, not to help the poor and needy, but solely to enrich themselves by all manner of means. Loans are first taken by such men in their own names, then in the names of their friends and relations and others, whom they can dominate. The money does not go to those who ostensibly take the loans. I was told by the secretary of a co-operative society, who spoke openly in a large gathering of people, that *benami* loans often amount from 30 to 40 per cent of the total amounts lent out. The unscrupulous and influential president or secretary gets the thumb-impressions of himself and

his followers on to numerous loan applications, which are promptly granted, as he is a virtual dictator in the society. Most of the money goes to one of them. He sees to it that the supervising union keeps quiet. He even sometimes gets the help of the supervisor in his shady transactions. In one case, a loan was actually granted by a society on the security of a plot of land which bore a survey number not existing in the village. Yet, the application went through with the cordial help of the supervisor. Another secretary of a society told me that, when he was in office, he received a letter from an influential lawyer requesting him to see that a large loan was granted to one of his clients. The loan was not sanctioned and soon after the secretary was turned out of office. Slack and crooked supervision is largely responsible for the continuance of these malpractices. If such are not checked from the outset, the society goes from bad to worse till liquidation and prosecution follow. The thing is to keep societies on the straight co-operative path from the beginning. Owing to the overt acts of a few unscrupulous office-bearers, hundreds of innocent persons are ruined as a result of the application of the principle of unlimited liability.

The following changes in the law and rules at present in force seem very necessary, and I recommend them strongly if they have not already been adopted:—

(i) Wise and solvent men who will really contribute to the co-operative movement will not join the societies unless they know the real state of affairs. All obstructions for

good men to come in should be removed. *For this the maximum of publicity is required.* This was Raffeisen's great maxim. Our societies largely work in the dark and there is the very negation of publicity. Audit reports are not even opened and read for years together, meetings are not held to consider such reports and members are not kept informed of the financial position. *Every society should be compelled to hang up its audited balance sheet in its premises and at the village chavadi, or village post office, so that it may be open to public inspection always.*

(ii) The surcharge powers of the Registrar should be enlarged and appeal should lie only to the Local Government. At present, a surcharge order can be passed only where there is fraudulent breach of trust. If the maximum individual borrowing power in a society is Rs. 500 and a loan is granted for Rs. 1,000, this will be an irregularity and not breach of trust and hence not a case for surcharge. *Surcharge orders should be capable of being issued even in respect of "bad and irregular expenditure of funds or negligence for time-barred debts or loss of decrees and bonds."*

(iii) Wilful disobedience of the Act is now punishable by fine, after prosecution before a first-class magistrate, I consider that the Registrar should have the power after an enquiry to impose a penalty for wilful disobedience of the Act and of by-laws.

(iv) According to section 15 of the Act, the Registrar can ask a society to convene a meeting within one month or call a meeting himself. Bad office-bearers can always avoid such meetings by arranging that there should be no quorum. Meetings convened under this section may be made valid even without a quorum.

(v) *No individual should be entitled to hold office in more than one co-operative society of a similar kind or connected kind at any one time.*

(vi) *The Registrar should be given powers under the Act to remove undesirable men after a proper enquiry.* His orders in this respect, can be made appealable to the Local Government.

77. *Interest.*—As already repeatedly pointed out, one of the foremost needs of the Indian farmer is cheap credit. The interest charged by co-operative credit societies is no doubt lower than that charged by the money-lender, and one of the good results the movement has undoubtedly achieved is to bring down the general rates of interest charged by private creditors. But the interest charged by societies is still far too high. The lending rate to-day is 9½ per cent, while instances are not wanting of the old rate of 10½ per cent being still in force. Some enterprising societies have brought down their interest to 7½ per cent. The main object of the co-operative movement, I presume, is to eliminate the middleman. Unfortunately, this object does not seem to have been achieved by the movement as it stands at present. Members of the

public invest money in the co-operative movement at a low rate of interest. The rate at which loans are granted is high and bears little relation to the rate of interest allowed on deposits in co-operative banks. This marked difference is because of the number of middlemen institutions between primary societies and the Central Bank at Madras. If primary societies are properly supervised, they are likely to attract deposits direct, which will enable the societies to lend at much lower rates of interest than at present. My own opinion is that co-operative credit societies should never be allowed to lend at over 7½ per cent at the very highest and that all decrees executed by the department in future should be calculated only at 7½ per cent or less on the principal, even as regards old debts. There can be no doubt that, if supervision is made adequate and really effective, the public will be eager to invest their money in co-operative banks and societies at low rates of interest.

78. *Overdues, arbitration and execution.*—Quite apart from the defects in the running of the co-operative movement, the slump has hit the movement very hard, as it has affected all creditors. Money is so scarce that overdues are rapidly increasing. I believe that if only societies accepted repayment in kind, the overdues would rapidly decrease. For such a method, the first essential is adequate warehouse accommodation and accurate and up-to-date information of current prices. The society can accept repayment in kind at the current market rates, charging a small commission for selling the produce. The produce can immediately be sold and converted into money. The following suggestions for existing co-operative debts are offered:—

(i) As far as possible, only instalment decrees should be passed.

(ii) Where only a few instalments are overdue, decrees should be passed only for such instalments.

(iii) Penal rates should not be levied except as a last resort.

(iv) By a special provision, the Registrar should be empowered to extend all the existing loans in societies for a period of three years.

(v) The department has held that, in the absence of a definite legal ruling to the contrary, the law of limitation applies to co-operative societies. I respectfully venture to disagree with this ruling, for the following reasons:—

(a) The Indian Limitation Act applies only to courts.

(b) The Registrar and arbitrator under the co-operative societies regulation are not courts for this purpose, although they have been given some of the powers of a court—power to summon witnesses, etc.

(c) Arbitrators are not included in the definition of a court.

(d) The Registrar or the arbitrator is not intended to take the place of a civil court for the disposal of suits.

(e) Co-operative societies are partnership concerns managed by persons elected by themselves for their mutual benefit. Claims due from members to such institutions as a whole are quite different from claims between persons with no common interests.

The question, whether or not the law of limitation applies to co-operative societies, is of vital importance to the movement. I suggest that it be immediately referred to the Advocate-General for a binding legal opinion. At present, unscrupulous panchayatdars deliberately allow quite a large proportion of loan-cases to become time-barred, and ignorance of the law of limitation also contributes largely to such cases. I firmly believe

that "unless it is established that the law of limitation does not apply to co-operative societies, the danger ahead is real and banks will be justified in distrusting societies and restricting credit."

(vi) It is essential that loan applications should be as quickly dealt with as possible, especially for cultivation expenses. There is no use in a loan being granted for ploughing, for instance, when the time for ploughing is over. The speeding-up of the machinery for the granting of loans is, therefore, very necessary.

79. *Non-credit societies.*—The following statement exhibits the number of non-credit societies connected with agriculture in this Presidency:—

STATEMENT No. 25.

	1924-25.	1925-26.	1926-27.	1927-28.	1928-29.	1929-30.	1930-31.	1931-32.	1932-33.	1933-34.
1 Loan and Sale Societies	50	51	53
2 Trading Union	19	9	7
3 Agricultural Improvement Societies	3	4	7
4 Stores	3	5	2
5 Milk Supply Union	1
6 Miscellaneous	14	10	6
<i>Total purchase and Sale Societies</i>		98	..	..	..	..	..	89	70	15
<i>Production and Sale Societies</i>		5	16	26	41	29	29	14	12	10
<i>Industrial Societies</i>		5	2	2	2	2
<i>Other Societies</i>	
Kudimaramat and Irrigation Societies	12	17	18	17	18	11	11	10
Agricultural Demonstration Societies	18	15	16	17	16	10	10	10
Land Reclamation Societies	9	9	10	11	12	12	12	12
Landholders' Lease Societies	1	2	2	2	15	12	9	8
Arbitration Union	1	1	1	1	1
Agricultural Improvements Societies	7	14	12	12
Industrial and Credit Societies	2
Cotton Growers Society	1
Field Labourers' and Tenants' Societies	258	299	333	385	313	308	294	284
Labour contract	4	4	5	4	3	2	..	..
Salt licences	1	1	1	1	2	..	..	..
Building Society	1	1	1	2	1	..	..	..
Agricultural implements	1	..	1	1	4	..	..	..
<i>Other Societies—Total</i>	..	250	300	348	337	391	337	370	349	340
<i>Insurance Societies</i>	..	3	4	4	3	5	5	..	..	..

The number of non-credit societies is small. No determined and systematic effort seems to have been made at any time to develop this side of co-operation. Madras in this respect compares very unfavourably with the Punjab.

80. *Loan and sale societies.*—The belief that the best form of security to lend on is crops, is steadily gaining ground. To develop properly this form of credit, adequate warehousing facilities are needed, and warehouses are hardly found in India. I really believe that the most important step in the emancipation of the ryot is the building of such warehouses. Co-operative societies are too poor to build them without liberal help from the Government. I venture to suggest that the money, which has been recently made available to our Government for rural uplift, may be devoted entirely to the building of warehouses. These should be built in sufficient numbers to cover the whole Presidency, allowing one to each marketing centre. About a thousand godowns have to be put down in the first instance. These should be fire-proof, insect and rat-proof, damp-proof and thief-proof. Each godown should have at least four separate large compartments for storing produce, so that different credit agencies—like

co-operative societies, private banks, the Imperial Bank—can hire a room each. Once the idea of lending on the security of crops has taken root, it will spread like wild-fire and the Government will have no difficulty in letting these godowns out. The terms must of course be as easy as possible.

Lending on the security of produce is by far the best method; provided the produce can be properly warehoused. There will not be overdues, or defalcations, or any of those difficulties which inevitably overtake creditors who lend on immovable property. A safe rule is to lend up to 75 per cent of the current value of the produce. Such lending ensures a quick turnover. Here then is an invaluable opportunity for co-operative enterprise. Societies for this purpose should, in my opinion, combine loan and sale operations. By this means, the power of the middleman will be broken. I visited at Madura a paddy loan and sale society, which was planted in the very heart of the *mandis*. During the short period it had been at work, it had, in spite of strenuous opposition, done a great deal to help its members. The following is a short account of its working. It was opened on 21st April 1934. There are 59 members with a paid-up share

capital of Rs. 2,310. The society deals mainly in paddy. Up to 15th February 1935, 5,555 bags of paddy and 583 bags of groundnut were received and all, but a balance of 910, were sold for Rs. 22,365, realising a commission of Rs. 586. Of Rs. 6,983, borrowed from the Central bank, all but Rs. 1,310 was repaid. In two months in the co-operative year 1933-34, the society earned nearly Rs. 150 in profit, and declared a dividend of 9 per cent on paid-up share capital. The society advances money to the extent of 75 per cent of the value of the produce. It charges a commission for sale of one anna to the buyer and one anna to the seller per bag. Ryots, by going to this society in preference to *mandis*, have been benefited to the extent of Rs. 1,400, by getting better prices and by correct weightment and measurement. The society has a good name and is pulling its weight in spite of opposition and counter-propaganda of 60 private *mandis*. Much work has been done in paying off loans to credit societies from the monies advanced on produce. The society has rented two buildings as godowns and feels the want of proper warehousing facilities keenly.

Once proper warehouses have been provided, such societies ought to be started all over the country. There is full scope for the opening of as many societies at marketing centres as there are godowns. In starting and working such societies the following precautions should be observed:—

(i) Always combine loan with sale operations.

(ii) There should always be a paid secretary and sales officer, if a co-operative inspector or agricultural demonstrator cannot be spared.

(iii) The department should exercise a careful and close supervision, especially over measurement and weightment of produce and the selling of it.

(iv) No society should be permitted to bind itself to sell only to a few dealers. The Tiruppur Co-operative Trading Society has agreed to sell *kappas* only to three dealers. Such a limitation of the market obviously tempts buyers to combine.

(v) A broker should never be employed as an intermediary. Here again the Tiruppur Society, I think, is at fault. A broker or agent between the society and the merchants is not only unnecessary, but also introduces the middleman into societies. Our object is to eliminate middlemen.

(vi) Dealing with ryots should always be prompt and business-like. Too often ryots are discouraged by having to wait for hours or even days before being attended to.

(vii) Receipts should immediately be given to ryots for bags stored, detailing the number of bags and their contents.

(viii) Regular and thoroughly business-like accounts should be kept.

(ix) The private interests of influential office-bearers or members should not be allowed to mar the spirit of mutual and equal help to all.

(x) The lowest rates of commission and interest possible should be charged.

Loan and sale societies properly run cannot but succeed, for the principles on which they work are simple and straightforward. Active and intelligent propaganda is however needed. Take the Rasipuram Co-operative Trading Society in the Salem district for example. It was registered in 1929, but did no work till February 1935, owing to slack running and want of proper interest in it. Active propaganda in villages immediately bore fruit, so that in just over two months of working the society was able to sell the cotton of members to the value of Rs. 34,000, realising a commission of Rs. 500. The society in the short period of its active life has been able to eliminate the village middleman, who stands between producer and mill-owner, thus saving the ryot from false weightments, which entail a loss of from ten to thirty pounds per *pothi*, and from false prices. The society by the auction system secures the best prices for its members. This society is badly in need of a proper godown. It intends to do business in groundnut after the cotton season is over. Much of the success of the society is due to the excellent non-official man-power available. The warehouse officer is a co-operative inspector. Another similar society, which has achieved no small measure of success, is the Groundnut Loan and Sale Society in South Arcot.

81. *Controlled credit*.—It is essential to ensure that loans given to ryots by Government or co-operative societies are not abused. I have already suggested that this can partly be done by lending in kind as far as possible. I am afraid little or no attempts are made by panchayats of rural societies or by supervising agencies to ensure that loans are applied for the purposes for which they are given. Rural credit can be really controlled only by linking it with marketing. The description sent to me of the method adopted in the Cuddalore warehouse will explain what exactly is meant by *controlled credit*. The scheme was by no means ambitious and did not seek to control all credit in the district. It financed the cultivation of groundnuts for about 25 societies by granting from Rs. 10 to Rs. 25 an acre and confined its activities to the control of such loans alone. Borrowers were obliged to show the agricultural demonstrator and the co-operative staff the lands which were to be cultivated with the loans. If the staff were satisfied that the land would yield about three times the money advanced, the loans were sanctioned on surety bonds or mortgage-deeds, on the condition that the harvest would be sold through the Co-operative Warehouse at Cuddalore and that loan dues would be recovered from the sale-proceeds. The loan was disbursed in two instalments, one for ploughing, manuring and sowing, and the other for weeding and harvesting. The second instalment was not disbursed till the land was inspected and the inspecting staff certified that the nature of the crops justified the second instalment. Further control was exercised by the staff, which visited

villages during harvest time and secured the produce for the warehouse. The scheme in short was "one of lending in coin and realising in kind after supervising cultivation." It bore rich fruit. Much of it was due to the hearty co-operation between members of the Agricultural and Co-operative departments. A sum of about Rs. 20,000 was advanced and all but a sum of about Rs. 1,600 was realised by means of deduction of sale-proceeds. There were only two members who attempted to evade the conditions. Both these apologised and came into line on a threat of prosecution. The subject of controlled credit is so very important and, if adopted throughout the Presidency, so likely to bear such rich fruit, that I venture to quote from an account of the working of the Koraipect Co-operative Society given by one who knows what he is talking about: "They had tried money-lending there in the past, and burnt their fingers. Loans had been decreed and lands had been sold up to realise the arrears. The Assistant Director of Agriculture and I proposed to do rural uplift in such a society. We offered to help in cultivation the members, who had given up groundnut cultivation for want of cheap credit. We inspected the lands, on which the cultivation was to be done; we estimated the probable yield at about Rs. 60 to Rs. 75 per acre; we got the Central bank to advance to the members of the society Rs. 25 an acre in instalments, once for ploughing and manuring and once for weeding and harvesting. Every borrower bound himself in writing to cultivate the lands he showed us for inspection and to deliver the produce raised for sale through the Co-operative Warehouse at Cuddalore. In all Rs. 1,895 were disbursed for the cultivation of irrigated groundnuts. We made sure by frequent inspection that every pie of the loan given was utilised for the purpose for which it was given. When the harvest came, member after member, true to the agreement he had signed, delivered the produce for sale through the co-operative warehouse. In all Rs. 4,000 worth of groundnuts from this society were sold through the warehouse, which deducted the loans advanced by the Central bank and paid the balance to the respective members. The society did not default to the Central bank. But the satisfaction in the method lay rather in the fact that Rs. 4,000 worth of groundnuts were produced in a village, which had almost given up raising groundnuts this year. The satisfaction also lay in the fact that sale through the co-operative warehouse gave the ryots Rs. 3 to Rs. 4 more per candy of groundnuts, by eliminating the middleman with his false weights, his false weightments and his false prices."

82. *Co-operative Stores.*—The success of such stores depends, as is well known, upon the loyalty of its members. Co-operative Stores are greatly needed in areas like the Upper Palnis in the Madura district, the Nilgiris, the Agency tracts, and all such places to which transport facilities are few and the cost of transport is high. Take the Upper Palnis for instance. When I was camping at

Kodaikanal, hundreds of ryots from distant villages came to me to represent their difficulties. They told me that merchants and traders (mostly Chettis from Vadagapatti) hold them in a grip of iron. They have a monopoly of stores and the ryots are too poor to pay cash for their requirements. So, these shop-keepers lent stores of a poor quality at high prices on credit at the most exorbitant rates of interest. Ryots are compelled to sell their produce to these traders at ridiculously low prices, to say nothing of false weightments and measurements and deductions for all manner of things. Further, ryots are too poor to cultivate their crops. They are obliged to borrow from these traders at very high rates of interest. The ryots begged me to arrange for the starting of small co-operative society stores at convenient centres. I believe that such stores, backed by a comprehensive scheme of controlled credit including loan and sale operations, will prove a great success. The remarkably successful co-operative stores at Kodaikanal serves Government officials, retired gentlemen and others, more than the ryots themselves who live far away in distant villages.

83. *Other non-credit societies.*—There is scope for much expansion in all directions—such as consolidation of holding societies, better living societies, co-operative farming, arbitration societies, and so on. From the reports received, the Punjab has evidently much to teach us in this direction. I suggest that an officer be deputed for six months to study the working of non-credit societies in the Punjab.

84. *Co-operation for women.*—I am of opinion that attempts should be made to start co-operative societies among women. There is no doubt that women can co-operate with men in joint organizations, and the trend of equality between the sexes would seem to demand a corporate activity. But, there are some reasons against this. In the first place, the social system of India is all against it and is likely to keep women in the background so that their interest will never be fully aroused and they will still depend greatly on men. If Indian women are to be improved, their sense of responsibility must be fully roused, and this can best be done by giving them their own concerns to manage. They must be sole masters and not be hindered by special customs and the presence of men. They must in fact learn to depend on themselves. In the second place, there are special problems for women, anxieties and difficulties which can best be tackled by themselves *alone*, at present at least. Lastly, even in Western countries, by recognizing this principle it has been definitely understood that by separate systems a separation of ideals and interests is not at all meant. As the President of the International Co-operative Women's Guild is reported to have said:—

"A woman's co-operative movement may therefore be an organic member of the whole movement and work in closest harmony with

it. It has never been possible for a woman's movement to be organized if led by men. Women had always to prepare the way for their sisters. Propaganda and the education of women must be organized on different lines from those of men. Man is not a house-wife; he does not know the little world of the household although he lives in it, and many things which are of vital importance to woman appear trifles to man, because he does not understand them. The house-wife can only be understood if the bridge between domestic economy and co-operation is built with a definite end in view."

85. *Education*.—It is unnecessary for me to stress the importance of educating the people in co-operative matters. In this, the department will do well to work in close collaboration with the Agricultural department.

86. *Training*.—A proper training college for co-operative officials seems as necessary as an Agricultural college is for demonstrators and other officials of the Agricultural department. If supervision is taken over by the department, the supervising staff should be a well-trained band of men, carefully chosen. Even Deputy Registrars and Sub-Deputy Registrars can well have a course of training for at least about three months each, particularly in marketing problems and the working of non-credit societies. I have often noticed that really keen Deputy Registrars are often groping in the dark as to how best to break fresh ground in non-credit work. They are often obliged through ignorance to adopt a "hit-and-miss" policy, involving many avoidable failures before success is eventually achieved.

87. *The need for a progressive policy*.—Finally, I venture to plead for a policy of steady, but cautious, expansion in all directions. Mr. Jack, in his *Economic Life of a Bengal district*, very wisely observes as follows, and his remarks apply with equal force to the movement in this Presidency: "The Government policy in respect of the movement has been announced as a policy of slow and cautious expansion, aiming avowedly at a distant millennium. It is urged in favour of slow expansion that the virtues of the movement lie in teaching the cultivator co-operation and a sense of responsibility and that, if the movement were pushed at a gallop, these virtues would be likely to be lost sight of in the cloud of dust. There is substance in these views no doubt, but a substance which it is sometimes difficult to separate from the shadow. Caution and slowness are comparative terms; and it is not easy to say how many years of waiting and watching are needed to justify their use. In Faridpur at the present rate of progress, which has not enabled one hundredth part of the ground to be covered in ten years, it would require a thousand years to eliminate the professional money-lender by co-operative effort. Indeed, the movement has not as yet got any real hold upon the district, nor is it likely to get any real hold until pioneer societies have been established far more widely than at present."

88. *Land mortgage banks*.—I have little to say on this subject. There were 64 primary land mortgage banks in this Presidency at the end of 1933-34, and several new banks have been subsequently registered. The need for steady, though cautious, expansion is very great.

The bank charges interest at the rate of 6½ per cent. With a lowering of the interest on debentures, the lending rate may be reduced to 5½ per cent or even less. Long term credit of this sort should bear as low a rate of interest as possible. Here also, as in the case of co-operative credit societies, I suggest that repayment of loans in kind may be accepted, the banks arranging through loan and sale societies for the immediate sale of such produce.

I suggest that, for the time being at least, loans may be granted solely for repayment of prior debts, especially after they have been conciliated. Even if debt conciliation boards are not constituted, I believe that primary land mortgage banks, with the help of the co-operative staff lent to them, can do much in the way of persuading creditors to agree to forego a substantial portion of their dues in return for payment in cash.

Very severe tests have to be passed by the borrower before he is given a loan. It is no doubt a good thing that the Central Land Mortgage Bank is cautious in sanctioning loans; I venture, however, to suggest that there is perhaps too much caution. For one thing, to limit loans to only 40 per cent of the market value of the hypotheca is perhaps erring on the wrong side. The Mysore Committee has recommended that the limit be raised from 50 to 70 per cent. I would recommend the raising of the limit in Madras to 60 per cent. Again, I do not see any reason why good dry land of itself should not be accepted as proper security, even if not backed by wet land.

I would suggest that the limit of lending be raised normally from Rs. 5,000 to Rs. 7,000. This will make land mortgage banks capable of supplying finance to debt conciliation boards, whose limit as regards applicants is a debt of Rs. 10,000. The period of repayment may be extended to 30 years.

I visited several land mortgage banks. What struck me forcibly was the enormous number of rejected loan applications, as compared with sanctioned applications, I examined several cases in detail. I confess I was sometimes puzzled why some applications were rejected. In some cases, the titles were sound, the repaying capacities were good and the value of the hypotheca sufficient. They had been strongly recommended by the primary banks and sub-deputy registrars, and legal opinion held definitely that the title was good. Yet these applications were rejected, while others of no better position, as far as I could see, were sanctioned. I venture to suggest that greater care be bestowed by the Central Land Mortgage Bank on the scrutiny of loan applications, which have been strongly recommended by primary land mortgage banks, the

legal adviser and sub-deputy registrars, and that only the really unsatisfactory cases should be rejected. It is also necessary that detailed reasons should be given by the Central Land Mortgage Banks, or primary land mortgage banks, for rejection and that copies of such findings be given to the disappointed applicants. Otherwise, it is difficult for them to find out exactly in what they are lacking and how they can improve before they can apply again with success.

CHAPTER IX.—A SCHEME FOR CO-ORDINATED AND PLANNED ACTION.

89. *Concentration centres.*—In every taluk, there are from five to ten natural marketing centres, each centre being within fairly easy reach of a group of surrounding villages, from which ryots bring in their produce periodically for sale. These are the centres where facilities for rural help may profitably be concentrated. I very strongly recommend that the following, among other, facilities may be made available at these centres:—

- (i) A good warehouse for storing produce.
- (ii) A loan and sale society.
- (iii) A co-operative credit society for the supply of cheap, short-term, controlled credit for productive purposes, chiefly, cultivation expenses.
- (iv) A co-operative stores.
- (v) Other non-credit societies for the peasant population, most suited to local conditions.
- (vi) A well-stocked agricultural depot under a demonstrator to supply ryots with implements, seed, manure, graft plants, poultry eggs for hatching, bee-hives, and so on.
- (vii) A small farm of 2 to 3 acres for demonstration purposes.
- (viii) A well-informed price information bureau.
- (ix) A stud bull.
- (x) A veterinary dispensary.
- (xi) A dispensary in charge of an official of the Public Health department.
- (xii) A boring inspector and a boring set for putting down wells.
- (xiii) An inspector of industries.
- (xiv) A school for adults for the spread of knowledge pertaining to agriculture, co-operation, industries (especially cottage industries), public health and so on, with facilities for a certain amount of practical training. Model appliances should be available for demonstration.
- (xv) A wireless loud speaker.

In working such centres, officials of the various Government departments should, I submit, co-operate closely with each other. The activities so co-ordinated will soon make such centres popular and useful. Intensive village propaganda is needed and, if necessary, special institutions like co-operative societies may be started in villages, but controlled from the

centres. The wireless will prove invaluable in attracting people, and as an instrument for amusement and imparting instruction is likely to be unrivalled, especially before the novelty wears off. Periodic lantern lectures, special lectures by well-known people (officials and non-officials), and so on are required to relieve monotony. Exhibitions, fairs, competitions and the like can be gradually introduced. In fact, there is no limit to the spread of activities in and around centres, once they have been given a fair start. In order to co-ordinate activities, one experienced officer with a few assistants may be appointed for the whole Presidency. Such centres have to keep in close contact with debt conciliation boards and land mortgage banks.

90. *Spread of education.*—It is not necessary that agricultural knowledge could be imparted only by officials of the Agricultural department, industrial knowledge by officers of the Department of Industries and so on. I suggest a wide pooling of knowledge by pamphlets and mutual exchange of views so that all touring officers and subordinates can spread useful knowledge on all subjects pertaining to the welfare of the villager. The officials of the Revenue department for instance can do a great deal during their tours in imparting knowledge and instruction relating to agricultural improvements, cottage industries, village sanitation and co-operative principles.

91. *Official and non-official co-operation.*—Officials and non-officials can usefully co-operate in rural uplift. I suggest the formation of rural uplift committees in every district headquarters, with branches in every taluk. These should include officials of the Revenue, Public Works, Forest, Public Health, Veterinary, Medical, Agricultural, Co-operative and Industries departments. Non-officials and representatives of local bodies, should include leading men as well as women. Special attention should be paid by such committees to education of the villager in matters relating to health and welfare. Mere lectures and discussions will be of no use. Villages have to be regularly visited and special attention is needed to impart knowledge to women. Once the women of villages are interested, improvement will soon follow in all directions. District committees can be co-ordinated by means of a central committee at Madras. The work of arranging for suitable broadcasting programmes should be one of the important duties of such committees.

CHAPTER X.—LAND REVENUE, FORESTS AND IRRIGATION.

92. *Land revenue policy.*—As is well known, rates of assessment on ryotwari land are arrived at on certain settlement principles, the most important of which is that the share to be taken as the Government demand shall not exceed half the net produce. In arriving at an estimate of the net produce, deductions from the gross values of produce are made for cultivation expenses. Liberal allowances are made

for vicissitudes of season, cartage and merchants' profits and so on. Grain outturns are converted into money rates by the application of the average prices of staple food crops for the twenty previous non-famine years. At a resettlement, which ordinarily occurs once in thirty years, the rates are revised mainly with reference to the average prices of staple food crops in the 20 previous non-famine years. The economic condition of the ryot is investigated into and the new rates can be adjusted so that he can pay them. The maximum increase in assessment at resettlement is limited to 18½ per cent, where enhancements are proposed on the basis of rise in prices only.

Viewed as a rent the land revenue assessment cannot be said to be excessive. As a tax it may be regarded as rather heavy, especially in bad years. If, however, the expenses of the ryot are to be reduced by a reduction in land revenue, so that he may have a bigger margin of profit to pay off his debts with, the fact must be faced that Government will have less money to spend on the people, as the bulk of the revenue of local Governments is derived from tax on land.

93. *Rent on zamindaris.*—The commuted money rents in many zamindaris are very high, sometimes going up nearly to Rs. 30 an acre. These high rates are in my opinion a hardship on the ryot, especially when, as I am told, communal facilities like irrigation works, grazing grounds and the like are, in certain zamindaris, left in a neglected state. I believe there is need for a careful re-examination of the commutation rates with a view to revising them where they are found to be pitched too high.

94. *Irrigation.*—The best form of insurance against vicissitudes of season and famines is to increase and enlarge the sources of regular supply of water for irrigation. Big irrigation projects are few. They cost much money and are consequently expensive to the agriculturist.

Tanks can with profit be repaired and enlarged. Many tanks have been abandoned, because ryots have been unable to contribute to their reconditioning. I suggest that works on as many of these as possible be taken up, by offering more liberal terms to the ryots, even recovering, if necessary, contributions from them in small instalments spread over a number of years.

The most desirable form of irrigation work by far, however, is the well. A good well will irrigate from 5 to 10 acres of land. While touring in Anantapur and Bellary districts recently, I was struck by the prosperity and greenness of small bits of land blessed with wells, as compared with the general atmosphere of famine-stricken barrenness. I suggest that a definite policy in the construction of wells be taken up, especially in districts susceptible to famine. The work should be systematically taken up, taluk by taluk,—the possibilities first surveyed and explored, and then the wells put down, partly perhaps by direct Government help and largely by loans granted to ryots on easy terms.

CHAPTER XI.—MISCELLANEOUS REMEDIES.

95. *Communications.*—My inspections and enquiries clearly show that village communications are quite inadequate. Local bodies, which derive a large income from cesses contributed by the ryot population, are, I am afraid, often negligent of the interests of the villager, especially in the provision and maintenance of village communications. The general complaint is that villages, in which the president of the board or his friends and relations have no concern, are completely neglected and no amount of petitions or deputations about them are of any avail. Inadequate village communications contribute much to the expenses and hardships of the ryot. Varakavipudi village in the Nellore district, for instance, is 14 miles from Nellore town. There are 8 miles of road and 6 miles of sand in between. The village is a wet one. Cart-hire for these 14 miles, much of them over heavy sand, actually comes to Rs. 6 or Rs. 7 for two carts which carry one *putti* of paddy. The position is the same for five other villages nearby. Numerous petitions have been sent to the president of the district board, but nothing has come of them. District union and panchayat boards should be largely responsible for rural welfare. Their neglect of their duties in this respect may be taken serious notice of by the Government. Of what real advantage to the ryot are first and second class roads, when he has to traverse with his country cart miles of neglected cross country to get to them? Why should the ryot pay local boards so much in cess, if even his elementary requirements are not considered?

96. *Weights and measures.*—A Bill for the standardization of weights and measures in this Presidency seems to be urgently called for. The work of the stamping party has to be not only enlarged, but also modified, so that it may cover every corner of the country, as well as ensure perfect immunity from tampering of stamped weights and measures. All officers of the Revenue, Co-operative and Agricultural departments, not below the rank of a revenue inspector, should be authorized to inspect weights and measures and launch criminal complaints.

97. *Transport.*—I venture to suggest that motor transport of agricultural produce may be encouraged by a reduction in taxation of lorries and if possible of the import duty on them.

Railway freights for agricultural produce are generally pitched too high. There have been some concessions of late, particularly for paddy; but I believe an all-round substantial reduction in freights for all agricultural produce is urgently needed. Some districts raise food crops far in excess of their requirements, while others do not raise enough. Unless the movement of produce throughout the country is fluid and free, proper adjustment of supply and demand is not possible. I venture also to recommend a flat rate per mile irrespective of distances to be covered. Chapter VII of Mr. C. R. Srinivasan's report on *Rice production*

and trade in the Madras Presidency is well-worth study in this connexion. To quote from page 70 of his report: "As an illustration let us take the case of the parboiled rice from West Godavari which sells at Rs. 6 per bag of 164 lb. at Madras. The price per bag of paddy at Godavari can then only be Rs. 2-13-0 as shown below:—

Charges incurred per bag before the rice arrives in Madras.

	RS.	A.	P.
Commission at Madras	0	1	0
Freights and incidental charges ...	1	2	0
Cost of gunny	0	3	0
Milling charges	0	4	6
Profit of the miller or merchant ...	0	1	0
Brokerage, weighing, etc.	0	0	6
Total	1	12	0

Therefore, the price of 164 lb. of rice or its equivalent 246 lb. of paddy will be Rs. 6, minus Rs. 1-12-0, or Rs. 4-4-0 in Godavari and hence the price of one bag of paddy of 166 lb. will be Rs. 2-13-0. Any reduction or complete elimination of expenditure under any of the abovementioned items would tend to increase the share obtained by the producer of the price paid by the consumer. During the last two or three years the expenditures under most of the above items have already been reduced to the absolute minimum and would not offer scope for any further reduction. The only item that can possibly be revised is railway freight as has been shown already."

98. *Emigration.*—Emigration is mostly confined to labourers who go to work in estates in Ceylon, the Federated Malay States and so on. The slump has naturally reduced such emigration. I suggest that all possible efforts are needed to stimulate emigration.

99. *Insurance.*—There are no insurance companies for the poor man. A great step forward will undoubtedly be taken if insurance companies can be persuaded to do business in small policies suitable for the small farmer. Such policies will soon become popular if properly advertised and pushed.

100. *Education.*—Finally, I wish to touch on the very important subject of education. Elementary education obviously needs to be rapidly extended in villages. In this extension, I think, a definite *agricultural twist*, as some one puts it, ought to be given to it. Special attention is needed to make rural economics, with practical out-door training, a compulsory subject. Since primers are needed to teach reading and writing, they should also be treated as a means of imparting useful knowledge in rural life and especially in agricultural economics.

Schools, I submit, should be as near the abodes of children as possible. The latter cannot be expected to walk even a mile or two in a hot and uncertain climate to get to a central school. The present hours of teaching are too long. A labourer and small farmer

expects his children to earn for him. He is therefore unwilling to permit them to spend the whole day in school. If only school hours for children are reduced and so fixed as to interfere as little as possible with agricultural and other operations in which children can be employed, school attendance will greatly increase. The following striking extract from an economist of Mysore has much truth in it: "Raise the economic efficiency of the villager—that is the most fundamental thing to be done . . . Parents of the boys have just confirmed my opinion. At least in sixty families I heard the master of the house complaining against the education that was being given to his boys in Government schools. Said they: 'You engage the boys for the whole day for four years in the primary schools and for six years in the middle schools. We at home give them special treatment in the shape of exempting them from our professional and accessory work, just because they are engaged working all the time with you. At school, whatever you teach or do not teach, you certainly teach the boys one thing—to sit on benches with minimum physical activity and to use the hand mainly for one thing, namely, writing. What happens? After the four or six years' course the boy returns home to join his parents in work; he enters life (as I have already said a very high percentage of rural families cannot afford to send and maintain their children in towns for years together, nor do they like it). The rough agricultural work which has to be done the boys do not like. They have lost their respect for labour and consider it as mean. Their physiques are weak on account of continuous disuse. They always yearn to take up some clerkship or some village schoolmastership or, to go to town. Such of them that get such places cannot maintain themselves with the pittance they get as pay.' And the climax of the tragedy comes up when the illiterate, uncivilized father is forced to send remittances to supplement the meagre earnings of his *educated son.*"

We are spending much money on Universities. In the Madras Presidency, two new Universities have lately sprung up. If they are to prove really useful to this country, special attention should be devoted to practical research and welfare work in villages; and agricultural economics should, I believe, be made compulsory even for University students.

101. *Conclusion.*—In conclusion, I wish to record my thanks for the strenuous work done for me by my clerk, R. Rangasayee, and my stenographer, K. Narayana Rao. My grateful thanks are also due to all those gentlemen, official and non-official, who have tendered and collected evidence for my report.

I have the honour to be,
Sir,
Your most obedient servant,
W. R. S. SATHIANADHAN,
Special Officer.

Government of Madras

LAW (GENERAL) DEPARTMENT

G.O. No. 2942; 12th September 1935

Agricultural indebtedness—Report of the Special Officer—Placed at the disposal of the Press.

Order—No. 2942, Law (General), dated 12th September 1935.

The Government direct that the report of the Special Officer appointed to enquire into agricultural indebtedness in this Presidency be placed at the disposal of the Press.

(By order of the Governor in Council)

C. GOVINDAN NAIR,
Joint Secretary to Government.

To the Board of Revenue (Land Revenue and Settlement).
„ the Hon'ble the Chief Justice (with C.L.).
„ the Registrar of Co-operative Societies.
„ all Collectors.
„ all District Judges.
„ the Inspector-General of Registration.
„ the Director of Agriculture.
„ the Accountant-General.
„ the Departments of Secretariat [except Finance (Pension)].
„ Mr. W. R. S. Sathianathan.
„ the Superintendent, Government Press.
Press.

REGULATION No. XVIII of 1928.

*(Received the assent of His Highness the Maharaja on the
14th day of July 1928.)*

The Mysore Agriculturists' Relief Regulation.

PRINTED BY THE SUPERINTENDENT AT THE GOVERNMENT PRESS, BANGALORE.

Price 0-1-0

NOTIFICATION.

*Notification No. P. 603 Legis. 48-27-2, dated 24th
July 1928.*

Ordered that the accompanying Regulation to relieve the agricultural classes in Mysore from indebtedness, which received the assent of His Highness the Maharaja, on the 14th day of July 1928, be published as Regulation No. XVIII of 1928, in the *Mysore Gazette* for general information.

B. NAGAPPA,
*Secretary to Government,
Law Department.*

REGULATION No. XVIII OF 1928.

*(Received the assent of His Highness the Maharaja on the
14th day of July 1928.)*

The Mysore Agriculturists' Relief Regulation.

Whereas it is expedient to relieve the agricultural classes in Mysore from indebtedness; it is hereby enacted as follows:— Preamble.

CHAPTER I.

PRELIMINARY.

1. This Regulation may be called the Mysore Agriculturists' Relief Regulation, 1928; and it shall come into force on the first day of January 1929. Short title.
Commence-
ment.

It extends only to such districts or parts of districts as may be notified by Government from time to time in the *Official Gazette* and Government may, by a like notification, exclude from its operation any area to which it had been extended. Extent.

2. In construing this Regulation, unless there is something repugnant in the subject or context:— Construction.

First.—"Agriculturists" shall be taken to mean a person who ordinarily engages in agriculture in the area

to which this Regulation applies for the time being, provided that his yearly income from sources other than agriculture does not exceed Rs. 500, and that his aggregate income from all sources does not exceed Rs. 1,000.

Explanation.

(a) A person who is a female or minor member of the family of an agriculturist as above defined and who has, as such, a right either to be maintained by him or to participate in the family agricultural income shall be deemed to be an agriculturist for the purposes of this Regulation.

(b) A person otherwise coming within the definition shall not be considered to be an agriculturist in reference to a certain transaction unless he or the person through whom he claims was also an agriculturist, as hereby defined, at the time when the transaction took place.

(c) A question of status raised and decided or withdrawn at any stage of the suit, or not raised at all though it could have been raised, cannot be re-opened or raised after the final decree in the suit, in proceedings connected with the execution of that decree.

(d) An assignee of Government revenue or a mortgagee as such is not an agriculturist within this definition.

Second.—“Money” shall be deemed to include agricultural produce, implements and stock.

Third.—“Standing crops” shall include crops of all sorts attached to the soil, and leaves, flowers and fruit upon, and juice in, trees and shrubs.

CHAPTER II.

SCOPE OF THE REGULATION AND JURISDICTION OF COURTS.

Application
of this
Regulation.

3. The provisions of this Regulation shall apply to—

(i) suits in which the defendant or any one of the defendants is an agriculturist for the recovery of money alleged to be due to the plaintiff—

on account of money lent or advanced to or paid for, the defendant, or
as the price of goods sold, or
on an account stated between the plaintiff and the defendant, or

on a written or unwritten engagement for the payment of money not hereinbefore provided for;

(ii) suits in which the defendant or any one of the defendants is an agriculturist for the recovery of money due on contracts other than the above and suits for rent in cases where the defendant, having sold or mortgaged a land, has taken it on lease from the vendee or the mortgagee;

(iii) suits for foreclosure or for the possession of mortgaged property, or for sale of such property, or for foreclosure and sale, when the defendant, or any one of the defendants, is an agriculturist; and

(iv) suits for the redemption of mortgaged property when the plaintiff, or, where there are several plaintiffs, any one of the plaintiffs, is an agriculturist.

4. (1) When in any suit under section 3 a question is raised as to the status of a party as an agriculturist, the Court shall try that question as a preliminary issue and record its finding thereon.

No appeal from finding on the issue of status.

(2) Notwithstanding anything to the contrary contained in this Regulation or in the Code of Civil Procedure, 1911, the finding of the Court of first instance on the issue of status shall be final and its correctness shall not be called in question in any appeal from the decree in the suit; provided that the High Court may, for the purpose of satisfying itself as to the legality or propriety of the said finding or the regularity of the proceedings, call for the records and pass such order with respect thereto as it thinks fit.

5. Whenever it is alleged at any stage of any suit or proceeding to which an agriculturist is a party that any transaction in issue entered into, at any time within a period of six years before this Regulation is extended to the local area concerned, by such agriculturist or the person, if any, through whom he claims was a transaction of such a nature that the rights and liabilities of the parties thereunder are triable wholly or in part under this Chapter, the Court shall, notwithstanding anything contained in section 92 of the Indian Evidence Act, 1872, or in any other law for the time being in force, have power to inquire into and determine the real nature of such transaction and decide such suit or proceeding in accordance with such determination and shall be at liberty, notwithstanding anything contained in any law as aforesaid, to admit evidence of any oral agreement

Power of Court to determine nature of transactions and to admit evidence of an oral agreement or statement

or statement with a view to such determination and decision:

Provided that such agriculturist or the person, if any, through whom he claims was an agriculturist at the time of such transaction;

Provided also that, notwithstanding anything contained in the Code of Civil Procedure or any other law for the time being in force, a suit for a mere declaration only of the real nature of the transaction shall lie, and that such declaration shall not affect the right to bring a subsequent suit for consequential relief in reference to such transaction.

Illustrations.

(a) A landlord sues for possession of land leased by him to an agriculturist. The defendant alleges that he mortgaged the land with possession to the lessor, who is entitled to its possession only as such mortgagee and not as owner, and asks that he may be allowed to redeem the mortgage without being ejected. The Court may admit evidence on this allegation, and, if satisfied that it is correct, may decline to eject the defendant as tenant, and allow the suit to be converted into one for redemption of the mortgaged property.

(b) An agriculturist sues to redeem property alleged to have been mortgaged by a deed in the form of a lease. The Court may admit evidence of the intention of the parties outside the deed in order to determine whether the transaction was a mortgage or a lease, and if satisfied that the transaction was a mortgage may enforce the deed as a mortgage-deed.

(c) A money-lender sues to enforce a sale deed entered into by an agriculturist. It is alleged that there was a contemporaneous oral agreement that the transaction should be deemed to be a mortgage. The Court may admit evidence of such oral agreement, and if satisfied of the existence of the agreement may decline to enforce the deed as a sale deed.

(d) An agriculturist sues to redeem property alleged to have been mortgaged by a deed in the form of a sale. The Court may admit evidence of the intention of the parties outside the deed in order to determine whether the transaction was a mortgage or a sale, and if satisfied that the transaction was a mortgage may enforce the deed as a mortgage-deed.

6. Every suit of the description mentioned in section 3 shall, if the defendant, or, where there are several defendants, any one of such defendants, is an agriculturist, be instituted and tried in a Court within the local limits of whose jurisdiction such defendant resides.

Agriculturists
to be sued
where they
reside.

Provided that nothing herein contained shall affect the provisions of sections 22 to 24 of the Code of Civil Procedure, 1911.

Explanation.—An agriculturist shall be deemed to reside in the place where he ordinarily engages in agriculture.

7. In any suit of the description mentioned in section 3 the Court shall examine both the plaintiff and the defendant, unless for reasons to be recorded by it in writing, it deems it unnecessary or impossible to do so.

Examination
of plaintiff
and defen-
dant.

8. (1) If the amount of the creditor's claim is disputed, it shall inquire as far as possible into the history and merits of the case out of which the suit has arisen from the commencement of the transactions between the parties or the persons, if any, through whom they claim.

Power of
Court to
enquire into
history of
transaction.

(2) When the Court inquires into the history and merits of a case under sub-section 1 it shall,—

notwithstanding any agreement between the parties or the persons (if any) through whom they claim, as to allowing compound interest or setting off the profits of mortgaged property without an account in lieu of interest, or otherwise determining the manner of taking the account,

and notwithstanding any statement or settlement of account or any contract purporting to close previous dealings and create a new obligation,

open the account between the parties, from the commencement of the transactions and take that account according to the following rules (that is to say):—

(a) separate accounts of principal and interest shall be taken;

(b) in the account of principal there shall be debited to the debtor such money as may from time to time have been actually received by him or on his account from the creditor, and the price of goods, if any, sold to him by the creditor as part of the transactions;

(c) in the account of principal there shall not be debited to the debtor, any accumulated interest which has

been converted into principal at any statement or settlement of account or by any contract made in the course of the transactions, unless the Court for reasons to be recorded by it in writing, deems such debit to be reasonable;

(d) in the account of interest there shall be debited to the debtor monthly, simple interest on the balance of principal for the time being outstanding, at the rate allowed by the Court as hereinafter provided;

(e) all money paid by or on account of the debtor to the creditor or on his account and all profits, service or other advantages of every description, received by the creditor in the course of the transactions (estimated, if necessary, at such money value as the Court in its discretion, may determine) shall be credited first in the account of interest, and when any payment is more than sufficient to discharge the balance of interest due at the time it is made, the residue of such payments shall be credited to the debtor in the account of principal;

(f) the accounts of principal and interest shall be made up to the date of instituting the suit, and the aggregate of the balances (if any) appearing due on both such accounts against the debtor on that date shall be deemed to be the amount due at that date, except when the balance appearing due on the interest account, exceeds that appearing due on the principal account, in which case double the latter balance shall be deemed to be the amount then due.

To enable the Court to make this inquiry, the creditor shall produce accounts, kept in the manner hereinafter prescribed, which shall record all transactions between himself and the debtor that shall have taken place subsequent to the extension of this Regulation. With reference to transactions, if any, which took place prior to the extension of this Regulation, he shall submit with the plaint a statement of account between himself and the debtor showing, to the best of his knowledge and belief, the advances made, the repayments admitted and how the sum claimed is arrived at.

(3) Nothing contained in this section shall be deemed to empower the Court as the result of an investigation hereunder to grant relief by way of refund to an agriculturist, whether as plaintiff or as defendant, of any amount to which he is not otherwise entitled under any law for the time being in force.

9. Where the mortgaged property is in the possession of the mortgagee or his tenants over than the mortgagor, and the Court is unable to determine what profits have been actually received, it may fix a fair rent for such property and charge to the mortgagee such rent as profits for the purpose of section 8.

In certain cases rent may be charged in lieu of profits.

Provided that if it be proved that in any year there was an entire or serious failure of the crops, an abatement of the whole or part of such rent may be allowed for the year.

10. In a suit of the description mentioned in section 3, clause (iv), the Court may, in its discretion, pass a decree for redemption though the time fixed for the payment of the principal of the mortgage money has not arrived, or though the mortgage debt has not been completely discharged.

Mortgagor entitled to redemption decree though time fixed by mortgage has not arrived or debt has not been discharged.

11. (1) The court may, in its discretion, in passing a decree for redemption foreclosure or sale in any suit under this Regulation or in the course of any proceedings under a decree for redemption, foreclosure or sale passed in any such suit, whether before or after this Regulation comes into force, direct that any amount payable by the mortgagor under that decree shall be payable in such instalments, on such dates and on such terms as to the payment of interest, and where the mortgagee is in possession as to the appropriation of the profits and accounting therefor as it thinks fit.

Power to order payment by instalments in case of decree for redemption, foreclosure or sale.

Where the Court decides that an amount due by a mortgagor should be paid in instalments, it shall fix such instalments as may seem equitable. It shall further allow future interest at a moderate rate unless, for reasons to be recorded in writing, it deems it unnecessary to do so. Instalments shall not extend over a period exceeding eight years unless the Court thinks necessary for reason to be stated in writing.

(2) In passing a decree for redemption or foreclosure in any such suit as aforesaid, the Court may direct that the amount payable by the mortgagee shall be discharged by continuing the mortgagee in possession for such further period as will enable him to recover his principal with reasonable interest, and that on the expiry of such period the property mortgaged shall be restored to the mortgagor.

Power to continue the mortgagee in possession.

(3) When the amount payable to a mortgagee in possession has been determined in any such suit as aforesaid, the Court may, in its discretion, instead of making an order for payment thereof, direct that the mortgagee be continued in possession for such period (to be specified by the Court) as will in the opinion of the Court be sufficient to enable him to recover from the profit the amount payable by the mortgagor together with reasonable interest, and that on the expiry of such period the property mortgaged shall be restored to the mortgagor.

Power to fix instalments in execution.

12. The Court may at any time direct that the amount of any decree passed, whether before or after this Regulation comes into force, against an agriculturist, shall be paid by instalments with or without interest.

Where such an order is passed, the Court shall fix such instalments as it may consider equitable, and shall allow future interest as a moderate rate, unless for reasons to be recorded in writing it deems it unnecessary to do so. Instalments shall not extend over a period exceeding eight years unless the Court thinks necessary for reasons to be recorded in writing.

Agriculturist exempted from arrest and imprisonment in execution of decree for money.

13. No agriculturist shall be arrested or imprisoned in execution of a decree for money, passed whether before or after this Regulation comes into force.

Immovable property exempted from attachment and sale unless specifically mortgaged

14. No immovable property belonging to an agriculturist shall be attached or sold in execution of any decree or order passed after this Regulation comes into force, unless it has been specifically mortgaged for the payment of the debt to which such decree or order relates, and the security still subsists. For the purposes of any such attachment or sale as aforesaid standing crops shall be deemed to be movable property.

Setting aside of sale by Deputy Commissioner.

15. (1) When any immovable property belonging to an agriculturist has been sold by public auction, under the provisions of the Third Schedule of the Code of Civil Procedure, 1911, the sale may, on the application of the decree-holder or the judgment-debtor or any other person whose interest are affected by the sale, accompanied by a deposit of a sum equal to five per centum of the purchase money, within thirty days from the date of the auction, be set aside by the Deputy Commissioner, if he considers the price bid by the purchaser to be inadequate.

(2) When the sale is so set aside, the purchaser shall be entitled to receive back his purchase money together with the deposit made under sub-section (1) and the Deputy Commissioner may re-sell the property by public auction or private contract, as he thinks fit. Every such re-sale shall be deemed to be a sale under the provisions of the Third Schedule of the Code of Civil Procedure.

CHAPTER III.

OF RECEIPTS AND STATEMENTS OF ACCOUNTS.

16. The person to whom any agriculturist makes any payment of money in liquidation of a debt shall, at the time of such payment, tender to such agriculturist whether he demands the same or not, written receipt for the amount of such payment.

Agriculturists entitled to written receipts.

17. Any agriculturist by whom any amount is due under any instrument shall, on such date in each year as the Government, having regard to local custom, may from time to time, by notification in the *Official Gazette*, fix, be entitled to receive on demand, from the person claiming under such instrument, a statement up to that date of his account under such instrument.

To annual statement of accounts.

18. Any agriculturist in whose name an account is kept by any trader or money-lender, shall be entitled to receive from such trader or money-lender, on demand, a pass book and to require from time to time, that his account up to date be written therein and authenticated by the signature or mark of the said trader or money-lender.

To have account made up from time to time in a pass book.

An entry so made in any such pass book for any payment made to the trader or money-lender shall be deemed to be equivalent, for the purposes of section 16, to the grant of a receipt for the amount so entered.

No person whose account has been written in a pass book as required by this section shall be entitled also to demand an account under section 17.

19. (1) Every money-lender having dealings with an agriculturist shall keep an account of all transactions taking place between himself and such agriculturist.

Accounts to be produced with plaint.

(2) Subject to the provisions of the Code of Civil Procedure, 1911, no suit under this Regulation against an agriculturist shall be proceeded with unless the account kept under sub-section (1), together with an extract of

REGULATION No. XVIII of 1928.

*(Received the assent of His Highness the Maharaja on the
14th day of July 1928.)*

The Mysore Agriculturists' Relief Regulation.

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NOTIFICATION.

No. 3613—L. C., Bangalore, dated 28th May 1935.

Under Rule 8 of the rules for the conduct of business of the Mysore Legislative Council, the accompanying Bill to amend the Mysore Agriculturists' Relief Regulation, XVIII of 1928, is published for general information with the statement of objects and reasons.

By Order,

C. SUBRAHMANYA AIYAR,
Secretary, Mysore Legislative Council.

Bill to Amend the Mysore Agriculturists' Relief Regulation, XVIII of 1928.

Whereas it is expedient to amend the Mysore Agriculturists' Relief Regulation, 1928; It is hereby enacted as follows.— Preamble.

1. This Regulation may be called the Mysore Agriculturists' Relief (Amendment), Regulation, 1935. Short Title.

2. In the second sentence of paragraph 2 of section 11 (1) (of the Mysore Agriculturists' Relief Regulation, 1928) a full stop shall be inserted after the word "rate", and the words "unless, for reasons to be recorded in writing, it deems it unnecessary to do so" shall be omitted. Amendment of section 11.

3. (1) The following shall be substituted for the first paragraph of section 12 of the said Regulation:—

"The Court may, in its discretion, in passing a decree for money in any suit under this Regulation or in the course of any proceedings under a decree passed whether before or after this Regulation comes into force against an agriculturist direct that any amount payable under that decree shall be paid by instalments." Amendment of section 12.

(2) In the second paragraph of the said section a full stop shall be inserted after the word "rate" and the words "unless for reasons to be recorded in writing, it deems it unnecessary to do so" shall be omitted.

Additions of
new sections
12A & 12B.

4. The following shall be added after section 12 as sections 12A and 12B:—

12A. In fixing the number of instalments to be allowed under sections 11 and 12, the courts shall take into consideration the period during which the loan was outstanding and the repaying capacity of the judgment-debtor.

12B. Whenever the Court orders payment by instalments it may direct that, in the event of default in the payment of any two consecutive instalments, the decree-holder may immediately enforce payment of the whole amount then remaining due under the decree.

Amendment
of section 14.

5. (i) In section 14 of the said Regulation for the words "no immovable property" at the beginning of the sentence the words "Except as otherwise provided in sections (2), (3) and (4) no agricultural land" shall be substituted.

(ii) The following shall be added as sub-sections (2), (3) & (4), the existing paragraph being numbered as sub-section (1):—

"(2) The court may at the time of passing a decree for money directing payment instalments or at any time during the course of execution of such decree direct the judgment-debtor for sufficient cause to furnish security for the amount of the decree and if he fails to furnish the security required, order the attachment and sale of any agricultural land belonging to the judgment debtor or declare a charge against such land within the meaning of section 100 of the Transfer of Property Regulation, 1918:

Provided that no sale in pursuance of the attachment ordered or charge declared under this sub-section of the agricultural land so attached or charged upon shall be ordered unless the judgment-debtor is in default in the payment of two or more consecutive instalments as directed in the decree.

(3) The provisions relating to attachment before judgment, contained in rules 12 and 13 of Order XXXVIII of the Civil Procedure Code as in force in Mysore, shall be applicable to attachments ordered under sub-section (2).

(4) An attachment ordered under sub-section (2) at the time of passing a decree shall subsist until the decree has been paid off or otherwise satisfied."

Amendment
of section 20.

6. In paragraph 2 of section 20, after the words "operation of law", the words "or by an order of the Court under section 14" shall be inserted.

7. The following shall be added as section 25 A :— Amendment
of section 25.

25 A. The Government may, by notification in the official Gazette, from time to time, direct that the provisions of this Regulation, except sections 2 and 13, shall not apply to any matter to or in which any society or class of societies registered under the Mysore Co-operative Societies Regulation, 1918, is a party, and may by a similar notification withdraw the exemption in respect of any such society or class of societies.

Statement of Objects and Reasons.

In September 1934, a Committee was appointed by the Government under the Chairmanship of *Rajasabha-bhushana* K. R. Srinivasa Iyengar, M.A., to examine how far the extension of the Mysore Agriculturists' Relief Regulation to the whole State has affected the credit of the agriculturists and to submit a report to Government. The Committee examined the question and submitted to Government in February 1935, an exhaustive report together with the draft of a Bill, embodying their recommendations.

Government have approved of the recommendations of the Committee with slight modifications as ordered in Government Order No. P. 6400-16—Legis. 20-34-7, dated 23rd May 1935 and this Bill is intended to secure the amendment of the Regulation on those lines. 4

The general principles of the proposed amendments to the Bill are as follows :—

Under the Regulation, the Court is empowered to grant instalments at the time a mortgage decree is passed or in execution proceedings under such decree and also in execution proceedings under a money decree. There is no specific provision empowering a Court to direct payment by instalments when passing a money decree, though it may be said that it may exercise such power vested in it under the Civil Procedure Code in case of suits under this Regulation also. It is proposed to amend section 12 so as to include specifically such a power.

2. The existing discretionary power of Courts to order interest or not under Sections 11 and 12 of the Regulation, is proposed to be modified so as to make it obligatory to grant some future interest in all cases the rate of interest being, however, left to be determined by the Courts.

3. The Bill provides for the addition of a new provision laying down that in fixing instalments under Section 11 and 12 of the Regulation the Courts should be required to take into consideration the period that the loan has been outstanding and also the repaying capacity of the judgment debtor.

4. The Courts will be empowered to direct that in the event of failure to pay two consecutive instalments, the whole debt should become due and be recoverable.

5. Exemption from attachment and sale in execution of a money decree under Section 14 is proposed to be limited to the agricultural land only of the debtor, and the other immoveables would not be so exempt. Provision is made to direct attachment and sale of the agricultural land also or declare a charge thereon in cases where payment by instalment is ordered and the debtor is unable to furnish security. The sale in pursuance of an attachment or charge will be ordered only when default is made in the payment of two consecutive instalments.

6. Power will be vested in the Government to exempt particular co-operative societies or classes of co-operative societies at their discretion from the operation of the provisions of the Regulation.

No. 214-73—P. O.

OFFICE OF THE PUBLICITY OFFICER
TO THE GOVERNMENT OF MYSORE,
PUBLIC OFFICES,

Dated Bangalore, the 23rd July 1934.

PRESS NOTE.

APPOINTMENT OF A COMMITTEE TO GO INTO THE QUESTION OF GIVING FURTHER RELIEF TO THE RAIYATS IN THE PRESENT PERIOD OF DEPRESSION.

The fall in the prices of agricultural produce in the State since the year 1931 has affected the prosperity of the raiyat population and although the effects of the fall have been, to some extent, counteracted by fairly good harvests, the situation has been one of considerable anxiety and Government have been closely watching it. Several measures of relief, such as special concessions in respect of land revenue assessment for the year 1933-34, relief in the recovery of the Record of Rights fees, reduction in the rates of interest on land improvement loans, remission of istihar fees in hard and deserving cases, waiving the recovery of stamp duty in respect of restoration of khates and latitude allowed in the collection of demands other than land revenue, etc., have been sanctioned in order to ease the situation for the raiyat as far as possible, but Government were unable to accept the suggestion made in the Representative Assembly and the Legislative Council for a general percentage reduction of the land revenue assessment. The Government considered that such a measure was scarcely feasible in the present condition of the State's finances and that, while it would involve a serious loss of revenue to the State, its benefit to the small landholders would not be appreciable.

The Government, therefore, preferred to adopt a policy of discriminating relief, of which the principal features were—

- (i) the grant of remissions on a liberal scale in tracts which suffered from a failure of crops coinciding with the slump in prices;
- (ii) the moderation of several miscellaneous revenue demands which forms, in some taluks, a considerable addition to the land revenue assessment; and
- (iii) the relaxation of coercive processes for collection of revenue as far as possible.

At the same time, it was felt that concessions in the matter of revenue collections alone would not go a long way to help the agricultural classes, and that the assistance which they needed most was in regard to the repayment of debts, particularly mortgage debts. It was, therefore, ordered that the provisions of the Agricultural Relief Regulation which had previously been in force in a few taluks should be extended to the whole State.

At the recent Session of the Legislative Council, several non-official members urged that the revenue concessions sanctioned by Government were inadequate and that the extension of the Agricultural Relief Regulation had re-acted unfavourably on the credit of the agricultural classes, and the suggestion was made that a Committee might be appointed to advise Government as to further measures of relief to the raiyats in the present period of depression. It has all along been the intention of Government to subject this question to a fresh examination in the event of the depression continuing much longer, and they are, therefore, pleased to accept the

[P. T. O.]

suggestion that a Committee of official and non-official gentlemen should be appointed for the purpose. The Committee will consist of the following :—

1. Mr. N. Madhava Rau, B.A., B.L.,
Revenue Commissioner in Mysore (Chairman).
2. „ K. V. Anantaraman, B.A.,
Offg. Inspector-General of Police.
3. „ A. K. Yegnanarayana Iyer, M.A., N.D.D.,
Director of Agriculture.
4. „ T. G. Rama Iyer, B.A.,
Deputy Commissioner, Kolar.
5. „ M. G. Mehkri, B.A., LL.B.,
Registrar of Co-operative Societies.
6. „ T. V. A. Isvaran, B.A.,
Deputy Commissioner, Shimoga.
7. *Rajasabhabhushana* Mr. K. R. Srinivasiengar, M.A.,
Retired Member of Council.
8. Mr. B. K. Garudachar,
President, City Municipal Council, Bangalore.
9. „ J. Mohamed Imam, B.A., B.L.,
Member, Legislative Council, Jagalur.
10. „ K. Chengalaraya Reddy, B.A., B.L.,
Member, Legislative Council, Bowringpet.
11. „ B. S. Puttuswamy, B.A., B.L.,
Member, Legislative Council, Mysore.
12. „ Hosakoppa Krishna Rao,
*Member, Representative Assembly, Hoskoppa,
Kadur District.*

The Committee will be requested to make a rapid enquiry into the extent to which the fall in the price of agricultural produce in recent years has affected the resources, debt obligations and credit facilities of the landowning and cultivating classes in different parts of the State and to report upon the nature and extent of the assistance that may be given to relieve them from the difficulties caused by the present depression, after an examination of the several measures suggested in this behalf and having in view the present financial condition of the State.

The Government state they would be glad if the Committee's report is submitted to them before the end of November 1934.

V. VEDAVYASACHARYA,
Publicity Officer to Government.

GENERAL SECRETARIAT

Passes orders on the Report of the Committee appointed to consider the question of amending the Agritulturists' Relief Regulation.

READ—

Letter dated 18th February 1935, from the Chairman of the Committee appointed by Government, in their Order No. P. 1300-11—Legis. 20-34-2, dated the 8th September 1934, to examine how far the extension of the Mysore Agriculturists' Relief Regulation to the whole State has affected the credit of the agriculturists and to indicate in what respects, if any, the Regulation requires to be amended, forwarding the Report of the Committee together with the draft of a Bill embodying their recommendations.

ORDER No. P. 6404-16—LEGIS. 20-34-7, DATED BANGALORE,
THE 23RD MAY 1935.

The recommendations of the Committee are as follows :—

(1) That a new provision be added laying down that in fixing instalments under Sections 11 and 12 of the Regulation, the courts should be required to take into consideration the period that the loan has been outstanding and also the repaying capacity of the judgment-debtor ;

(2) that the existing power of courts to deny future interest in some cases when ordering payment by instalments should be modified so as to make it obligatory to allow future interest at a moderate rate in all such cases ;

(3) that courts should be empowered to direct that in the event of failure to pay two consecutive instalments, the whole debt should become due and be recoverable ;

(4) that exemption from attachment and sale in execution of a money decree should be limited to the agricultural land only of the debtor, and that other immovable properties should not be so exempt. Even in respect of agricultural land, the court should be empowered to order attachment and sale or declare a charge under certain circumstances ;

(5) that Government should be empowered to exempt particular co-operative societies or classes of co-operative societies, at their discretion, from the operation of the provisions of the Regulation.

The Government approve of the above recommendations subject to a slight modification in regard to (4) above. The Committee have recommended that the court may be empowered to order attachment and sale of the agricultural land of a debtor, if after notice to him he fails to furnish security for the decree amount. Government consider that this is somewhat drastic and goes against the underlying principle of this legislation that the land should be saved to an agriculturist-debtor. At the same time, Government recognise that it is necessary to give some protection to a creditor to whom payment is postponed by ordering instalments and prevent an unscrupulous debtor from alienating his land so as to defeat the creditor's interest. Government consider, therefore, that the provision to order attachment and sale of the agricultural land or declare a charge thereon be limited to cases where payment by instalment is ordered and that the sale in pursuance of an attachment or charge should be ordered only when default is made in the payment of two consecutive instalments.

Action will be taken to introduce necessary amendments to the Regulation.

The Government desire to convey their thanks to the Chairman, *Rajasabha-bhushana* K. R. Srinivasa Iyengar, M.A., and the other members of the Committee for the thoroughness with which they have completed the work entrusted to them and for the very valuable report and recommendations submitted by them.

H. V. RAMASVAMI,
Secretary to Government,
General Department.



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PART I

IMPORTANT GOVERNMENT ORDERS

CHIEF SECRETARIAT

Appoints Mr. C. S. Srinivasachar, B.A., Registrar, General and Revenue Secretariat as Special Duty Officer in connection with the arrangements for the Birthday Session of the Representative Assembly in June 1935.

ORDER No. RL. 264-70—R. A. 28-35-1, DATED BANGALORE,
THE 24TH MAY 1935.

Mr. C. S. Srinivasachar, Registrar, General and Revenue Secretariat, placed on Special Duty, in Government Order No. O. 3128-36, dated 14th May 1935, is also placed in charge of the arrangements in connection with the Birthday Session of the Representative Assembly commencing in June 1935. Members of the Representative Assembly are requested to place themselves in communication with Mr. C. S. Srinivasachar for any information or assistance that they may require at Mysore during the Session of the Assembly.

2. The Deputy Commissioner, Mysore District, the President, City Municipal Council, Mysore, and the Assistant Engineer, Headquarters Range, Mysore, are requested to render all reasonable help to the officer on Special Duty.

K. V. ANANTARAMAN,
Offg. Chief Secretary to Government.

Government of his highness the Maharaja of Mysore.

GENERAL AND REVENUE DEPARTMENTS.

No. R. 2652-723—L. R. —208-34-4, dated 30th October 1935.

Report of the Agriculturists' Relief Committee in Mysore.

Passing orders on the ———.

READ—

Government Order No. R. 302-73—L. R. 221-33, dated 20th July 1934, appointing a Committee to advise Government in the matter of affording further relief to the raiyats in the present period of depression.

2. Letter No. O. 308, dated 18th January 1935, from the Chairman of the Committee submitting their report.

ORDER No. R. 2652-723—L. R. 208-34-4, DATED BANGALORE,
THE 30TH OCTOBER 1935.

The continuous fall in the prices of agricultural produce in the State during the past few years has been causing considerable anxiety to the people and the Government. Various measures have been sanctioned from time to time to afford relief to the agricultural population. At the session of the Legislative Council held in June 1934, several non-official members urged that the concessions sanctioned by Government were inadequate and that the extension of the Agriculturists' Relief Regulation to the whole State had added to the trouble by disturbing the credit of the agricultural classes. Government thereupon appointed a Committee consisting of the following official and non-official gentlemen to study the situation and submit their recommendations:—

Personnel of the Committee and terms of reference.

1. Mr. N. Madhava Rau, B.A., B.L., Revenue Commissioner in Mysore, (now Member of Council) CHAIRMAN.
2. „ K. V. Anantaraman, B.A., Officiating Inspector-General of Police (now Revenue Commissioner) in Mysore.
3. „ A. K. Yegnanarayana Iyer, M.A., N.D.D., Director of Agriculture (since retired).
4. „ T. G. Rama Iyer, B.A., Deputy Commissioner, Kolar.
5. „ M. G. Mehkri, B.A., LL.B., Registrar of Co-operative Societies.
6. „ T. V. A. Isvaran, B.A., Deputy Commissioner, Shimoga.
7. *Rajasabhabhushana Diwan Bahadur* K. R. Srinivasa Iyengar, M.A., Retired Member of Council.
8. *Rao Bahadur* B. K. Garudachar, President, City Municipal Council, Bangalore.
9. Mr. J. Mohamed Imam, B.A., B.L., Member, Legislative Council, Jagalur.
10. „ K. Chengalaraya Reddy, B.A., B.L., Member, Legislative Council, Bowringpet.
11. „ B. S. Puttaswamy, B.A., B.L., Member, Legislative Council, Mysore.
12. „ Hosakoppa Krishna Rao, Member, Representative Assembly, Hosakoppa, Kadur District.
13. „ S. K. Venkataramana Iyer, B.A., B.L., Assistant Commissioner (SECRETARY).

The Committee were requested (1) to make a rapid enquiry into the extent to which the fall in the prices of agricultural produce in recent years had affected the resources, debt obligations and credit facilities of the land-owning and cultivating classes in different parts of the State; and (2) to report upon the nature and extent of the assistance that might be given to relieve them from the difficulties caused by the present depression, after an examination of the several measures suggested in this behalf, and having in view the present financial condition of the State.

2. Pending the formulation of detailed proposals on the several points referred to them, the Committee submitted *interim* recommendations to Government for the grant of certain urgent measures of relief. These are referred to in detail in Annexure I to this order, in which the orders of Government thereon are also indicated.

Interim recommendations.

No. R. 2652-723—L. R. 208-34-4, DATED 30TH OCTOBER 1935.

3. The Committee have considered the matters referred to them in a thorough and exhaustive manner, and have now submitted their final report. The subjects considered by them may be classified under the following heads:—

- Classification of main recommendations.*
1. *Dues to Government.*—
 - (a) Concessions in regard to the payment of land revenue and remission of assessment;
 - (b) Reduction of land revenue demand on a percentage basis;
 - (c) Concessions in regard to miscellaneous demands, such as fees under the Record of Rights Regulation, liability for tank maintenance, etc.
 2. *Agricultural Indebtedness.*—
 - (a) Relief in respect of decrees obtained by Co-operative Societies;
 - (b) Constitution of Debt Conciliation Boards;
 - (c) Reduction of interest on debts of agriculturists.
 3. *Agricultural Finance.*—
 - (1) Concessions in respect of the grant and recovery of land improvement and takavi loans;
 - (2) Extension of co-operative institutions and land mortgage societies.

4. Government have already sanctioned several measures of relief in regard to remission of revenue, moderation of miscellaneous demands and relaxation of coercive processes. The Committee have recommended that these concessions, which afford fairly tangible relief to the agriculturists, and which had lapsed at the end of December 1934 should be continued so long as the present depression lasts. Government accepted the recommendation of the Committee and extended the concessions up to the end of June 1935. They will be prepared to extend them further if the depression continues.

Extension of concessions regarding collection of land revenue and other demands.

5. The land revenue is at present collected in four instalments, commencing from February. On default in the payment of any one instalment, the occupant is liable to be called upon to pay the entire demand for the year, including the instalments which have not fallen due. The Committee consider that it will be a relief to the raiyats if they are allowed to pay only the overdue instalments and if coercive steps are suspended on such payment. Government accepted the recommendation and directed that this concession be allowed during the year 1934-35. The Committee consider that, in areas where cotton is the principal crop, the land revenue can be paid by the raiyats only after March or April as the crop is generally harvested in March. They, therefore, suggest that the adoption of coercive steps for recovery of assessment in those taluks where the bulk of land revenue is collected from lands on which cotton is grown may be deferred till the end of March. Government accept this recommendation. The Revenue Commissioner is requested to issue necessary instructions accordingly.

Collection of overdue instalments of land revenue.

6. In view of the failure of crops in 1934-35 in certain parts of the State, following a series of years of depression, the Committee suggested that, in tracts where the crops had completely failed and the conditions bordered on distress, the question of granting some concession by way of remission of a part of the assessment on dry lands might be favourably considered. The existing rules make no provision for the remission of dry assessment in case of failure of rains; but in tracts which have suffered severely by drought, Government are always prepared, as a special concession outside the rules, to sanction suspensions and, where necessary, even remission of a portion of the demand. Accordingly, Government have sanctioned the remission of 25 per cent of the dry assessment in some of the affected tracts in the Kolar District.

Special concessions for dry lands.

7. Under the existing rules, the remission of half the wet assessment may be sanctioned if, owing, to failure of rains, more than half the area of wet lands under a tank has remained uncultivated, or, if cultivated, has yielded a crop of not more than four annas, and if, further, the tract has already been so impoverished or the previous years' harvests have been so poor as to render relief necessary. The second condition was relaxed last year and Deputy Commissioners were

Change in the wet assessment remission rules.

No: R. 2652-723—L. R. 208-34-4, DATED 30TH OCTOBER, 1935.

instructed not to withhold recommendations for remission in cases, which satisfied the other conditions of eligibility, merely on the ground that the previous harvests in the tract had been normal. The Committee considered that, as the economic depression still continued, this restrictive condition should be suspended during 1934-35 also. Government accepted this recommendation. The Committee also suggested that the other condition, namely, that more than half the area should have remained uncultivated should also be relaxed as the entire *atchkat* under certain tanks may not be cultivated even in normal years. Under the system followed in Mysore, the rates of assessment are based on considerations of average yields of crops over a series of years of good, moderate and deficient rainfall. There was thus no provision in the rules formerly for remission, but Government have in recent years adopted a policy of granting a remission of a portion of the wet assessment when there is a widespread failure of crops due to drought, flood, etc. The rule that remission of half wet assessment may be sanctioned only when at least half the *atchkat* has been affected is intended to ensure that the relief is limited to cases of failure of rains over an entire tract, and is not given when only a few individual fields suffer. In a season of widespread drought the probability is that practically the whole of the *atchkat* remains uncultivated or yields four annas or less. The rule is not likely to cause any hardship in practice and Government do not consider it necessary to relax it. As regards the *quantum* of remission, one-half of the wet assessment is ordinarily remitted. But in cases where dry crops are raised and yield more than an eight-anna crop, the amount remitted is one-half of the difference between the wet and dry rates. In respect of lands which are not cultivated at all, or, if cultivated, have yielded a crop of four annas and less, a majority of the members of the Committee consider that the return to the raiyat in such cases may not even cover the cost of seed and other expenses of cultivation. They therefore recommend that, in these cases, the highest dry rate or half the wet assessment, whichever is less, may be imposed and the balance remitted. But the other members feel that the grant of remission of half the wet assessment is itself a concession and that the circumstances of the present situation do not warrant a wholly different method being adopted for determining the amount of remission to be given in such cases. Government consider that the existing rule is quite equitable and requires no modification.

8. Representations have been made to Government in the Representative Assembly and elsewhere that the burden of land revenue has increased owing to the fall in prices and that the payment of land revenue at the existing rates constitutes one of the causes of agricultural indebtedness. Two proposals have been made to deal with the situation:

Reduction of land revenue demand on a percentage basis.

- (1) that the assessment should be reduced to the level of the original settlements, or
- (2) that a portion of the existing rates should be remitted temporarily (the exact figure suggested varying from 12½ to 25 per cent).

The majority of the members are against any general percentage reduction of the land revenue. In their view, the plea for any kind of general remission has lost much of its force owing to the marked increase which has since occurred in the prices of the more important agricultural products of the State, such as ragi, paddy, jola and horse-gram. The difficulties, arising as a result of untimely and inadequate rainfall, are essentially of a local character and cannot require or justify any general remission. The land revenue assessment now prevailing is well within the conventional one-sixth of the gross produce or half the net produce, and it cannot be said that the pitch of assessment itself is too high. The proposal to reduce the assessment all round by a definite percentage fails to discriminate between cases which deserve relief and those which do not. While it would result in a substantial loss of revenue to the State, there is no certainty that the measure would bring any tangible benefit to the agriculturists as a majority of khatedars are small landholders who have been paying their assessment without much difficulty. Government consider, after a careful consideration of the dissenting views expressed by some members, that a percentage reduction, irrespective of other conditions, is neither necessary, nor just, nor expedient, and that it will be far more beneficial

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to adopt a policy of discriminating relief, of which the principal features are the following:—

- (1) Grant of remissions on a liberal scale in tracts which suffer from a failure of crops coinciding with a slump in prices;
- (2) Moderation of several miscellaneous revenue demands which form in some taluks a considerable addition to the land revenue assessment; and
- (3) Relaxation of coercive processes for collection of revenue.

Government accordingly passed orders, suspending the collection of land revenue and miscellaneous demands in certain affected tracts to the extent of Rs. 4½ lakhs and sanctioning remission of half wet assessment to the extent of Rs. 2½ lakhs in the case of tanks which received an inadequate supply of water.

9. The Committee consider that the existing rate of mutation fees, namely eight annas for a survey number subject to a maximum of Rs. 5 for all the numbers in a village included in a transaction is heavy. They therefore recommend that this rate may be reduced to four annas per survey number, subject to a maximum of Rs. 2. The Revenue Commissioner and the Director of Land Records, who were consulted in the matter, are not in favour of the proposal. Government consider that, as the scale of mutation fees has already been revised and the amount now levied only covers the cost of establishment, it cannot be further reduced.

10. The Committee bring to notice that the amount recovered from the raiyats for their neglect to carry out tank maintenance work is sometimes excessive. Prior to 1927, the maximum amount that could be levied on this account, in cases of cumulative neglect, was limited to one year's assessment on the lands included in the *atchkat* of the tank. As this limitation tended to put a premium on neglect, it was modified in 1927 so as to allow of the recovery, in suitable cases, of the entire expenditure incurred for the purpose. The Committee consider that there might be justification for recovering the entire expenditure in cases where the raiyats have wilfully or defiantly neglected the work. But in other cases, they recommend that, until general conditions improve, the maximum limit of the raiyats' liability may be restricted as before to one year's assessment on the *atchkat* lands. Government are not in favour of changing the rules as suggested. They are, however, pleased to authorise the Revenue Commissioner to waive a part (or where necessary, even the whole) of the demand against the raiyats under this head in respect of works taken up during the period of distress for providing labour to the people.

11. As regards acreage contribution recoverable from the raiyats benefited by the restoration or improvement of works of irrigation, the Committee point out that, although the maximum period allowed for payment is ten years, the periods actually fixed are much shorter. As the rate of contribution is rather high and the payment of one-tenth of this amount every year together with the water-rate may, in some cases, be a heavy burden, the Committee suggest that, in cases where the contribution or a substantial part of it is not recovered in a lumpsum before an irrigation work is commenced, its collection may be spread over a sufficiently long period so that the raiyats can easily pay the same out of their income from the benefited lands. Government accept the recommendation of the Committee and direct that, during the period of depression, the number of instalments of acreage contribution in respect of works of irrigation restored or improved be fixed at ten in the case of works costing less than Rs. 25,000. In the case of larger irrigation works, more than ten instalments are allowed in practice. In special cases, where the raiyats experience difficulty in payment, Government will be prepared to permit the recoveries being either postponed or the annual instalments being reduced.

12. The Committee estimate that the total agricultural indebtedness in the State amounts to not less than 35 crores of rupees. They further understand, from enquiries made, that the volume of debt is on the increase and that, in a fairly large number of cases, the debt is very nearly equal to, if not greater than, the value of the assets. The principal measures recommended by the Committee to deal with this situation are the expansion of land mortgage banks in order to enable the agriculturists to convert

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their debts to long-term loans which may be repaid out of current income, and the reduction of agricultural debts by conciliation between debtors and creditors. The operations of the Mysore Co-operative Land Mortgage Bank have already been extended to twenty-two taluks and it is the desire of Government that the scheme should be extended as rapidly as possible to other parts of the State also. There will however remain a large number of cases in which it is impossible for the debtors to discharge their liabilities in full, even though converted into long-term loans. To deal with such cases, a scheme of composition of debts of agriculturists, through Conciliation Boards, has been recommended by the Committee. After considering the recommendations made in this respect by the Royal Commission on Agriculture and the Indian Banking Enquiry Committee and examining the schemes of conciliation attempted in Bhavanagar, the Central Provinces and the Punjab, the Committee have formulated the following scheme.

A debtor or any of his creditors may apply to the Civil Court of competent jurisdiction to effect a settlement. The court may appoint a Conciliation Board consisting of three to five members, of whom an equal number will be nominated by the debtors and the creditors respectively, the Chairman being selected by the court. The Board will call upon the debtor and his creditors to explain their respective cases and endeavour to secure an amicable settlement, and for that purpose, it will have the power to require the attendance of witnesses and the production of documents and to receive evidence. It may submit for the opinion of the court any question of law involved. If all or any of the creditors come to an amicable settlement with the debtor, such settlement will be reduced to writing in the form of an agreement, recording the amounts payable to the creditors and the manner in which, and the times at which, they are to be paid. The court shall pass a decree in terms of such agreement. If a debtor makes default in paying any amount fixed under a decree, such amount will be recoverable, in the first instance, as an arrear of land revenue, on the application of the creditor, made within 90 days of the date of default, and if the Deputy Commissioner fails to recover any part of the amount as an arrear of land revenue, the matter should be reported to the civil court, and thereafter, the amount will be recoverable through the processes of the court. If, however, any creditor does not come to an amicable settlement, the Board may, if it is satisfied that the debtor has made a fair offer, which the creditor ought reasonably to have accepted, grant the debtor a certificate in such form as may be prescribed in respect of the debts owed by him to such creditor, provided that the creditors to whom not less than 40 per cent of the debts are due have come to a settlement. In the event of a creditor filing a suit for the recovery of debts in respect of which a certificate shall have been granted, the court shall not allow the plaintiff any costs in such suit, or any interest on the debt after the date of certification in excess of simple interest at six per cent per annum on the amount due on the date of such certificate, and if the suit is in respect of an unsecured debt, the execution of the decree passed in the suit shall be postponed till all amounts due under the settlement are paid, or till the agreement has ceased to subsist. Reference to Conciliation Boards is proposed to be limited to cases in which the total amount of debt does not exceed Rs. 10,000.

13. The Committee are not unanimous on the question whether conciliation should be voluntary or compulsory. Some members consider that the principle of compulsory conciliation would affect the credit of the agriculturists and that therefore the scheme should be only on a voluntary basis. While all the members are agreed about the desirability of introducing a scheme of voluntary conciliation, some of them are inclined to doubt whether this would, by itself, be sufficient. The latter therefore suggest that, while the scheme might generally be of a voluntary character, the possibility of having to introduce some measure of compulsion should not be overlooked and that suitable legislation should be undertaken to enable Government to extend the scheme on a compulsory basis in areas in which it is found to be necessary or expedient. As regards the means of re-paying the conciliated debt, the Committee are of opinion that the payment of the debt by the State either in cash or by bonds is out of the question, in view of the largeness of the amount involved. They therefore suggest

Conciliation : voluntary or compulsory.

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that, wherever possible, efforts should be made to pay off the liquidated debt or a portion of it through co-operative societies or land mortgage banks according to the length of the term over which the recovery has to be spread. The Committee recognise that these agencies can help only in cases where the debtor has adequate security to offer and that there will still remain a class of debtors whose conciliated debt, being far in excess of their assets, must be dealt with in a different manner. They recommend that such debtors should be afforded a chance of surrendering all their assets and of being adjudged insolvents so that they may earn their living, freed from the perpetual bondage of an impossible debt.

14. Government agree with the Committee that a scheme of debt conciliation may be introduced as an experimental measure in a few selected areas. The scheme proposed by the Committee is generally acceptable, but a few modifications appear to be necessary. The Committee's proposal to have Conciliation Boards *ad hoc* for each case may lead to a want of uniformity regarding the guiding principles and procedure adopted by different Boards in the same locality. It is necessary that, in the settlement of cases, some general principles should be uniformly followed. In this view, a permanent Board for each local area, to deal with all the cases arising there, appears to be necessary. The Conciliation Board should moreover be in a position, as recommended by the Committee, to negotiate loans, wherever necessary from a land mortgage bank or co-operative society, as the creditor will expect payment in cash of the reduced amount of the debt. All this requires that, for each local area, there should be a permanent Board and it is desirable that the Chairman of the Board should be an official. There should be two or more additional members of the Board who should be appointed by Government. The Board's decisions should be regarded as a decree binding on the debtor and the creditor, if they agree. Where there are several creditors, the decree will be binding only if the settlement is agreed to by creditors to whom not less than 50 per cent of the debts are due. Where there are both secured and unsecured debts, the further condition should be satisfied that creditors, to whom not less than 50 per cent of the secured debts are due, agree to the settlement. When a settlement is arrived at, the Board will attempt to arrange payment to the creditor of the amounts of their debts as settled through a land mortgage bank or a co-operative society and where this is not possible, the amount due will be recovered by the Deputy Commissioner as an arrear of land revenue. If it is not recovered, the agreement (as regards time and manner of payment of the reduced debt) will cease to subsist and creditors will have their usual remedies through the Civil Courts (by way of execution proceedings). No court fees will be levied, but stamp duty will be only as for applications. In cases where the liquidated debt is far in excess of the assets, the Conciliation Board may act as an Insolvency Court, as proposed by the Committee. A scheme, as outlined above, is what Government have provisionally in view, subject to further consideration and examination of details, in consultation with the High Court.

15. The Agriculturists' Relief Regulation of 1928 which has been extended to all parts of the State was enacted in order to prevent the sale of agricultural land on account of debts of the cultivator which are not secured by a mortgage on the lands, and to permit agriculturists to pay their debts in instalments. It has been reported that this has adversely affected the credit of the agriculturists. The Committee consider that, with the introduction of certain safeguards, the Regulation is bound to prove of benefit to the agriculturists. The question of amending the Regulation, in order to meet the objections urged against it, was referred to a separate Committee presided over by *Rajasabhabhushana Diwan Bahadur K. R. Srinivasa Iyengar*, and action has already been taken to amend the Regulation on the lines proposed by that Committee.

16. The problems arising from agricultural depression in the malnad parts of the State were enquired into and reported upon by a Committee appointed by Government and the Committee suggest that that report may be treated as supplementing their present proposals. Orders on most of the recommendations contained in that report have been issued already.

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17. The Central Co-operative Land Mortgage Bank has at present been granting loans up to 50 per cent of the value of the properties hypothecated. The Committee consider that, in view of the fall in land values due to depression, a margin of 50 per cent is unduly restrictive, and propose that, having regard to the possible increase in the value of lands, the limit up to which loans may be sanctioned may be raised to 70 per cent of the present market value. Government accept this recommendation of the Committee. Separate action will be taken to amend the Bye-laws of the Land Mortgage Bank.

Percentage of security up to which loan should be granted by the Land Mortgage Bank.

18. The Committee consider that, as pointed out by the Royal Commission on Agriculture and various other authorities, the greatest hope for the salvation of the rural masses from their crushing burden of debt lies in the growth and spread of a healthy and well-organised co-operative movement, based upon the careful education and systematic training of the villagers. They suggest that strenuous efforts should be made to increase the number of co-operative societies and improve their working, and that these societies should, in addition to providing the credit necessary, educate the raiyats and promote in them the qualities of thrift and prudence. Government are in general agreement with the views of the Committee in regard to the part that co-operative societies may play in improving the economic condition of the raiyats.

Extension of co-operative societies in the State.

19. The Committee have concluded their report by making some general suggestions relating to permanent measures of rural improvement. Some of them are briefly referred to below:—

General suggestions for rural improvement.

(1) *Improvement of agriculture.*—The Director of Agriculture has appended a Note to the report, indicating the lines on which the efficiency of agriculture may be improved and the raiyats enabled to realise the maximum amount for their labour. Improvement in irrigation facilities, growing of better-yielding varieties of crops, use of more efficient implements and better manure, conservancy and utilization of farm manure on a larger scale and improvement in the business of farming itself so as to reduce the cost of cultivation and increase the volume of the output are among the most important measures recommended for adoption. These questions fall mostly within the normal functions of the Department of Agriculture and Government desire that the department should spare no pains to show substantial progress under these heads.

(2) *Irrigation facilities.*—The Committee consider that the efficiency of agriculture could be greatly improved by providing irrigation facilities which will make agriculture less dependent on the vagaries of nature. They recommend that as many tanks as possible should be restored at a very early date and that steps should be taken to popularise the scheme of irrigation wells. Wherever they are likely to be successful, suitable advances should be given to the raiyats for constructing such wells. The Chief Engineer, who was consulted in the matter, considers it desirable to have a number of inexpensive wells sunk in the *atchkat* of selected tanks by making use of reinforced cement steining rings at a cost of about Rs. 200 per well. He is preparing a type plan for such a well and proposes to have the plan and estimate printed and circulated widely for information through the revenue authorities. Government have also passed orders recently directing the deputation of an Engineering Officer to investigate the possibility of encouraging the construction or improvement of irrigation wells in one of the affected tracts of the Kolar District, and they will be glad to provide all possible facilities for the construction of such wells. As regards a systematic programme of tank restoration works, the Chief Engineer considers that, so far as major irrigation works are concerned, there is no particular need at present to formulate any special programme as the present commitments are as heavy as Rs. 60 lakhs and it will take six years to complete the works on hand. As regards minor tank restoration, he has asked for a grant of Rs. 5 lakhs for the current year based on a fifty-year programme. Separate orders will be passed on the proposal in due course.

(3) *Subsidiary occupations for the raiyats.*—The Committee are of opinion that greater effort should be made to develop subsidiary rural industries in

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order to provide some profitable occupation to the raiyats during their spare time so that the income derived may supplement their resources and help them to improve their economic position. This question is engaging the attention of the Department of Industries and the Board of Industries and Commerce. Separate orders will be issued on receipt of definite proposals from the Director of Industries and Commerce on the subject.

20. The other recommendations which have not been dealt with in this order are under consideration, and orders on them will be issued in due course. Government wish to place on record their appreciation of the comprehensive and thorough manner in which the Committee have, under the guidance of the Chairman, Mr. N. Madhava Rau, dealt with the questions referred to them, and the lucid and practical manner in which they have formulated their proposals, and they direct that their thanks be communicated to the Chairman and the members of the Committee.

A. V. RAMANATHAN,
Chief Secretary to Government.

To—The Revenue Commissioner in Mysore.
The other Heads of Departments.
The Secretaries to Government.
The Deputy Commissioners of Districts.
The members of the Committee.

PRESS TABLE.

Exd.—C. K.

No. R. 2652-723—L. R. 208-34-4, DATED 30TH OCTOBER 1935.

ANNEXURE I.

Interim recommendations of the Committee and orders of Government thereon.

Recommendations	Orders of Government
<p><i>I. Grant of Takavi Loans.—</i></p> <p>(i) Deputy Commissioners should be instructed to grant takavi loans liberally under the rules to all agriculturists (including Shikmidars, Mulgenidars, etc.) who have transferable and saleable interests in land;</p> <p>(ii) In the case of those agriculturists (e.g., tenants) who may not have any saleable interest in land, such loans may be granted with the consent of the owner of the land, if he offers the land as collateral security;</p> <p>(iii) Instructions should be issued to the local officers to dispose of applications for loans promptly, within two or three months;</p> <p>(iv) The rate of interest may be reduced to four per cent for a period of two years; and</p> <p>(v) Government may increase the budget provision for the grant of loans to the extent necessary, the allotment being immediately raised by one lakh of rupees.</p> <p><i>II. Liberal Instalments and Publication of Rules.—</i></p> <p>(i) In granting loans for permanent improvements involving heavy outlay, sanctioning officers should be required to fix the number of instalments in a liberal manner so that the income from land may leave enough for the current demands of cultivation and the raiyat's personal requirements; and</p> <p>(ii) wide publicity should be given to the Takavi and Land Improvement Loan Rules so that the agriculturists in the remote villages may avail themselves of the facilities offered by Government.</p>	<p>The proposals were sanctioned in G. O. No. R. 34-43—L. R. 221-33, dated 17th October 1934, for one year. The grant in each individual case was ordered to be limited to Rs. 100. The allotment for the year was increased from Rs. 80,000 to one lakh of rupees.</p> <p>This provision was further increased to Rs. 1½ lakhs in G. O. No. R. 3935-36—R. M. 36-34-4, dated 12th February 1935.</p> <p>Government accept both the recommendations. The Revenue Commissioner is requested to issue necessary circular instructions to the subordinate Revenue Officers.</p>
<p><i>III. Recovery of Loan Dues.—</i></p> <p>(1) Deputy Commissioners of Districts may be authorised to suspend the re-payment of instalments of Land Improvement and Takavi Loans due during 1934-35 and in special cases, suspend the re-payment of one instalment in arrear, if such re-payment was found to be unduly burdensome;</p> <p>(2) Such relief should be given only on the application of the party;</p> <p>(3) When the payment of one or two instalments is thus postponed, all the remaining instalments due on the loan should be postponed for one or two instalment periods and no additional interest need be charged by reason of the suspension; and</p> <p>(4) The power of granting suspensions may be vested with Amildars so that the benefit of the concessions might be more easily availed of by the raiyats.</p>	<p>The proposals were approved in G. O. No. R. 2532-42—L. R. 221-33-36, dated 27th November 1934, with the modification that the recovery of interest need not be waived as it is likely to tempt people who can afford to pay to withhold payment. The Committee have urged a reconsideration of the order regarding the waiving of interest on suspended instalments. But Government regret their inability to accept this recommendation. Individual cases of hardship will, however, be considered on their merits.</p>

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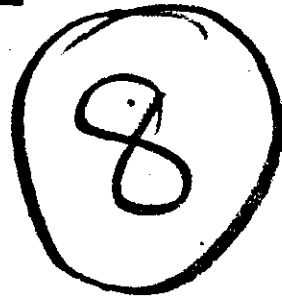
Recommendations	Orders of Government
<p><i>IV. Decrees of Co-operative Societies against debtors who are Agriculturists.—</i></p> <p>(i) In the case of decrees which have been obtained in respect of fresh loans granted recently, further time of five or six months till the next harvest season may ordinarily be granted. If in any case such extension will be detrimental to the recovery of the amount, the Society concerned may make a special application to the Assistant Registrar for immediate steps being taken ;</p> <p>(ii) While no postponement of execution need be given in the case of decrees which relate to very old loans in respect of which there has been continued default by the members, even in these cases, if all interest up-to-date and a small portion of the principal, say 12½ per cent, is paid, Revenue authorities may suspend execution and return the cases to the Assistant Registrars for further instructions. The Assistant Registrars may advise in all deserving cases the grant of fresh loans by the Societies ; and</p> <p>(iii) In regard to the suits filed during the year 1934-35, the Assistant Registrars may be instructed to grant time till the next harvest season for payment of all interest up-to-date and a portion towards the principal, failing which, the decrees may be sent for execution.</p>	<p>These proposals were sanctioned in G. O. No. 2670-740—C. S. 18-34-2, dated 10th October 1934.</p>

ANNEXURE II.

Recommendations contained in the Committee's report on which orders have been passed already.

Recommendations	Orders of Government
<p><i>I. Remission under Breached Tanks.—</i></p> <p>If the occupant of a land under a breached tank raises only dry crops and the prospect of the tank being repaired is remote, dry assessment may be levied in lieu of half the wet assessment leviable under the existing rules as contained in Paragraph 234 of the Mysore Revenue Manual, Vol. I.</p> <p><i>II. Reduction of Record of Rights Fees.—</i></p> <p>(a) The scale of Record of Rights fees which was recently reduced to Re. 1-8-0 per <i>hissa</i> may be further reduced to Re. 1-4-0.</p> <p>(b) The Record of Rights Scheme may not be extended during the period of depression to taluks where the recovery of the fees might entail a serious addition to the existing revenue burdens.</p>	<p>The following addition to the existing rule was ordered in G. O. No. R. 4304-15—L. R. 254-34-2, dated 5th March 1935 :—</p> <p>In cases where the tank is, for all practical purposes, abandoned for an indefinite period and no wet crops have been raised under it for three successive years, a temporary assessment at the maximum dry rates prevailing in the village, may be levied as Bengar <i>kandayam</i>, with the sanction of the Revenue Commissioner, the balance of wet assessment being shown as a remission.</p> <p>The fees were reduced to Re. 1-4-0 per <i>hissa</i> in G. O. No. 3852-4—L. S. 19-34-7, dated 12th February 1934.</p> <p>This suggestion will be kept in view when the question of introducing the scheme into new taluks comes up for consideration</p>

REPORT
OF THE
AGRICULTURISTS' RELIEF COMMITTEE
IN MYSORE



BANGALORE :
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1935

REPORT OF THE AGRICULTURISTS' RELIEF COMMITTEE.

I. PRELIMINARY.

This Committee was constituted by Government Order No. R. 302-73—L. R. 221-33, dated 20th July 1934, in which the scope of the enquiry and the terms of reference are stated as follows :— Terms of Reference.

“ The fall in price of agricultural products in the State since the year 1931 has affected the prosperity of the raiyat population and although the effect of the fall has been to some extent counteracted by fairly good harvests, the situation has been one of considerable anxiety and Government have been closely watching it.”

* * * * *

“ At the recent session of the Legislative Council, several non-official members urged that the revenue concessions sanctioned by Government were inadequate and that the extension of the Agriculturists' Relief Regulation had reacted unfavourably on the credit of the agricultural classes and the suggestion was made that a Committee might be appointed to advise Government as to further measures of relief to the raiyats in the present period of depression.” Accordingly, the Committee has been constituted with instructions “ to make a rapid enquiry into the extent to which the fall in the price of agricultural produce in recent years has affected the resources, debt obligations and credit facilities of the land-owning and cultivating classes in different parts of the State, and to report upon the nature and extent of the assistance that may be given to relieve them from the difficulties caused by the present depression, after an examination of the several measures suggested in this behalf and having in view the present financial condition of the State.”

2. The Committee consisted of the following members :—

1. MR. N. MADHAVA RAO, B.A., B.L.,
Revenue Commissioner in Mysore (Chairman).
2. MR. K. V. ANANTARAMAN, B.A.,
Offg. Inspector-General of Police.
3. MR. A. K. YEGNANABAYANA IYER, M.A.,
Director of Agriculture.
4. MR. T. G. RAMA IYER, B.A.,
Deputy Commissioner, Kolar.
5. MR. M. G. MEHRI, B.A., LL.B.,
Registrar of Co-operative Societies.
6. MR. T. V. A. ISVARAN, B.A.,
Deputy Commissioner, Shimoga.
7. *Rajasabhabhushana* MR. K. R. SRINIVASIENGAR, M.A.,
Retired Member of Council.
8. MR. B. K. GARUDACHAR,
President, City Municipal Council, Bangalore.
9. MR. J. MAHOMED IMAM, B.A., B.L.,
Member, Legislative Council, Jagalur.
10. MR. K. CHENGALABAYA REDDY, B.A., B.L.,
Member, Legislative Council, Bowringpet.
11. MR. B. S. PUTTASWAMY, B.A., B.L.,
Member, Legislative Council, Mysore.
12. MR. HOSAKOPPA KRISHNA RAO,
Member, Representative Assembly, Hosakoppa, Kadur District.

MR. S. K. VENKATARAMANA AIYAR, B.A., B.L., Acting Assistant Commissioner, was appointed Secretary to the Committee.

Personnel
of the
Committee.

Procedure
of the
Committee.

3. The Committee held 11 meetings on the dates given below :—

2nd August 1934
3rd September 1934
4th September 1934
18th September 1934
10th October 1934
9th November 1934
10th November 1934
29th November 1934
15th December 1934
16th December 1934
29th December 1934

At a preliminary meeting held on 2nd August 1934, the Committee decided that the necessary statistics and information relevant to the points for consideration might be compiled from the available official records, supplemented if necessary, by special reports to be obtained from the Deputy Commissioners of Districts. At a later stage, in response to the desire of some of the members, a detailed questionnaire (*vide* Appendix) was framed and sent to the Deputy Commissioners and they were requested to furnish notes on the points referred to therein after consulting any large landholders, traders and money-lenders in the district who could speak from personal experience about the matters under consideration. The Deputy Commissioners have accordingly favoured us with their opinions and have also sent the replies received from the officers and non-official gentlemen whom they consulted in regard to the questionnaire. The Chairman and some of the members had opportunities of meeting, during their tours, representative landholders in the localities which they visited, and informally ascertaining their views as to the extent of the depression and the measures of relief that could be usefully adopted.

We have also had the advantage of perusing some of the recent literature dealing with the agricultural situation in other parts of India, including the measures of legislation adopted or contemplated therein for relieving indebtedness.

Malnad
Depression
Enquiry
Committee.

4. The problems arising from agricultural depression in the Malnad parts of the State, which comprise one-fifth of the area and contain one-ninth of the population of the State, have been separately enquired into by a Committee appointed by Government in their Order No. R. 5663-68—L. R. 373-30-21, dated 14th April 1931, and presided over by the then Revenue Commissioner, *Rajamantrapravina* Mr. S. P. Rajagopalachari. The report is already before Government. We suggest that it be published and that the recommendations made therein be treated as supplementing our own proposals.

5. Two deputations, one consisting of Messrs. B. K. Rama Bhatta of Koppa and K. T. Satyanarayana Setty of Birur on behalf of the Malnad Commercial and Banking Corporation, Ltd., and another consisting of Messrs. G. W. Mayow, Yellappa Ajile and C. S. Subbanna Naik of Koppa on behalf of the Koppa Coffee Planters, met the Committee on the 10th and 29th November 1934 respectively. The former asked for a recommendation being made to Government for grant of financial assistance to the Corporation which had been brought into existence for the creation of facilities for the marketing of Malnad products and the latter asked for reduction of assessment on coffee lands in the Koppa Taluk this year in view of the very poor crops, due to want of timely rains. The Committee informed the deputationists in both cases that their requests were outside the scope of the Committee.

A third deputation consisting of representatives of Yegati and Hirenallore Hoblis of Kadur Taluk met the Committee on the 15th December 1934 to represent the serious situation this year due to failure of rains.

Interim Recommendations.

6. Pending the formulation of detailed proposals on the several points referred to us, our Committee submitted interim recommendations to Government for the grant of relief to agriculturists in respect of certain urgent matters.

Special
Takavi Loans.

One of these recommendations related to the grant of takavi loans during the current year and was to the following effect :—

(i) That the Deputy Commissioners should be instructed to grant takavi loans liberally under the rules to all agriculturists (including Shikmidars, Mulgenidars, etc.) who have transferable and saleable interests in land.

(ii) That in the case of those agriculturists (*e.g.*, tenants) who may not have any saleable interest in land, such loans may be granted with the consent of the owner of the land, if he offers the land as collateral security.

(iii) That instructions should be issued to the local officers to dispose of applications for loans promptly within two or three months.

(iv) That the rate of interest may be reduced to 4 per cent for a period of two years.

(v) That Government may be requested to increase the budget provision for the grant of loans to the extent necessary, the allotment being immediately raised by one lakh of rupees.

The Government in their Order No. R. 34-43—L. R. 221-33, dated 16th—17th October 1934, sanctioned the proposals for one year and limited the grant in each individual case to Rs. 100. The allotment for the year was also increased from Rs. 80,000 to one lakh of rupees.

The second recommendation related to relief on the following lines in the matter of enforcement of decrees of co-operative societies against agriculturist debtors:—

Postpone-
ment of
Execution of
Co-operative
Society
Decrees.

(i) No postponement of execution need be given in the case of decrees which relate to very old loans in respect of which there has been continued default by the members. Even in these cases, if all interest up to date and a small portion of the principal, say 12½ per cent, is paid, the Revenue authorities may suspend execution and return the cases to the Assistant Registrars for further instructions. The Assistant Registrars may advise in all deserving cases the grant of fresh loans by the societies.

(ii) In the case of decrees which have been obtained in respect of fresh loans granted recently, further time of five or six months till the next harvest season may ordinarily be granted. If, in any case, such extension will be detrimental to the recovery of the amount, the society concerned may make a special application to the Assistant Registrar for immediate steps being taken.

(iii) In regard to the suits filed during the current year, the Assistant Registrars may be instructed to grant time till the next harvest season for payment of all interest up to date and a portion towards the principal, failing which the decrees may be sent for execution.

These proposals were approved in Government Order No. D. 2680-740—C. S. 18-34-2, dated 6th—10th October 1934.

The third recommendation was for the continuance, till the end of December 1934, of the revenue and other concessions sanctioned by Government from time to time. This was accepted by Government in their Order No. R. 1387-97—L. R. 221-33-27, dated 18th September 1934.

II. STATISTICS OF POPULATION AND AGRICULTURE.

7. Before proceeding to examine the questions arising from the slump in prices, it may be useful to bring together, for purposes of reference, some essential statistics relating to agriculture in the State.

8. The population of the State has, during the past thirty years, increased by about 10 lakhs, *i.e.*, from 5,539,399 in 1901 to 6,557,302 in 1931, *i.e.*, by nearly 20 per cent. Of the total population, nearly 84.1 per cent live in rural areas, while the rest, *viz.*, 15.9 per cent live in towns.

9. *Agricultural Population.*—The Census Report (1931) gives the following analysis of the population of the State depending upon agriculture and allied occupations:—

TABLE I.

	Earners (principal occupation) plus working dependents	Earners (subsidiary occupation)
Pasture and agriculture	2,276,700	82,354
(a) Cultivation	2,111,796	48,876
Non-cultivating proprietors taking rent in money or kind	48,114	6,282
Cultivating owners	1,416,676	15,489
Tenant cultivators	196,104	7,550
Agricultural labourers { Farm servants ...	481,708	19,067
{ Field labourers		
(b) Special crops such as coffee, etc.	48,742	8,978
(c) Forestry	5,237	1,503
(d) Stock raising	108,145	13,264
(e) Raising of small animals and insects like silk worms	2,780	10,834

10. *Registered Holdings.*—The registered landholders in the State number about a million and may be classified as follows according to the amount of assessment paid by them and the extent of land in their holding (*vide* Season and Crop Report for 1932-33):—

TABLE II.

A. Classification according to Extent of Land.

	Number	Extent (Acres)
1. Holdings not exceeding 1 acre	117,992	108,167
2. Holdings exceeding one acre and not exceeding 5 acres	468,619	1,816,648
3. Do 5 acres and not exceeding 10 acres	258,298	1,884,141
4. Do 10 do 50 acres	159,485	2,939,551
5. Holdings exceeding 50 acres	21,270	1,824,016

B. Classification according to Revenue Paid.

	Number	Extent (Rupees)
1. Holders paying an assessment of Rs. 5 and under	492,081	15,08,971
2. Do over Rs. 5 but less than Rs. 25	442,498	47,09,719
3. Do over Rs. 25 and less than Rs. 100	113,954	40,59,147
4. Do over Rs. 100	10,068	16,67,178

From the foregoing, it will be seen that nearly 83 per cent of the registered holders in the State own less than 10 acres each, and nearly 87 per cent of the holders pay kadayam of Rs. 25 or less. It may be noted that under our system of revenue registry, no account is taken of hissedars, shikmidars, etc., and it is probable that if information regarding the latter were forthcoming, the number of persons having small holdings and paying small amounts by way of kadayam would be found to be considerably larger than the above figures indicate.

11. *Area Occupied and under Crops.*—Between the years 1905-06 and 1929-30, the extent of occupied area rose from year to year from 72½ lakhs of acres in 1905-06 to 79 lakhs in 1921-22 and 81½ lakhs in 1929-30. Since then, there has been a fall every year and the figures stood at 79½ lakhs in 1932-33, showing a slight increase of 32,000 over the figures of 1921-22. Compared with the figures of 1905-06, the increase is only 7 lakhs or 10 per cent, while the total population during this period has increased by 20 per cent.

The cultivated area, however, shows a higher percentage of increase, *viz.*, 15. It stood at 5,773,717 acres in 1905-06 and reached the maximum of 67 lakhs in 1929-30. Since then, there has been a fall by nearly a lakh of acres at the end of 1932-33.

The main food crops grown in the State are paddy, ragi, horsegram, avare and jola and the main commercial crops are cotton, groundnut, sugarcane, coconut, areca and the plantation crops: coffee, tea and cardamom. Mulberry is also grown in parts of Kolar, Bangalore, Tumkur and Mysore Districts. The bulk of the commercial crops is exported to British India and elsewhere. In respect of one of the important food grains, *i.e.*, rice, the imports greatly exceed the exports, its production in the State being insufficient for local requirements.

The areas under the important crops during the years 1929-30 to 1933-34 are indicated below:—

TABLE III.

Acreage under Important Crops from 1929-30 to 1933-34.

Crop	1929-30	1930-31	1931-32	1932-33	1933-34
Ragi	2,258,854	2,278,692	2,380,250	2,811,445	2,282,786
Paddy	720,825	742,761	731,300	770,277	774,397
Horsegram	783,170	760,028	768,931	802,609	787,209
Coconut	142,273	146,460	147,509	162,588	162,992
Jola	769,700	708,076	688,775	666,448	656,810
Groundnut	823,788	818,912	870,986	888,586	864,096
Cotton	75,188	82,624	88,219	91,464	76,767
Coffee	112,876	98,547	99,974	102,712	101,920
Cardamom	...	...	...	20,208	20,886
Areca	48,519	52,150	55,420	47,199	46,608
Coriander	27,339	48,295	58,326	55,088	51,861
Chillies	64,964	66,806	75,821	77,469	74,060
Tobacco	23,692	22,727	24,606	24,768	24,499
Mulberry	37,497	37,991	33,010	31,407	29,864
Sugarcane	33,186	37,794	36,076	42,098	42,282

TABLE IV.

Exports and Imports of Agricultural Produce.

12. The following table gives the details of imports and exports of the principal agricultural products during the period of depression :—

Commodity	1929-30		1930-31		1931-32		1932-33	
	Quantity	Value	Quantity	Value	Quantity	Value	Quantity	Value
IMPORTS								
	Mds.	Rs.	Mds.	Rs.	Mds.	Rs.	Mds.	Rs.
Ragi	11,220	41,690	808	1,848	14,827	29,571	14,688	95,704
Rice (in husk)	22,730	87,592	41,445	1,35,093	10,677	25,412	94,295	60,738
Rice (not in husk)	1,483,065	1,08,04,121	1,110,897	63,69,764	1,206,855	56,04,990	1,869,636	61,63,862
Cotton (raw)	228,949	74,61,215	171,413	38,93,214	183,026	39,89,069	263,476	52,69,560
Cocconut	85,514	1,56,925	80,606	1,06,173	18,297	56,807	29,876	1,19,604
Coffee	10,945	7,31,506	8,605	4,54,127	8,132	4,33,075	6,626	8,44,552
Groundnut	46,229	3,35,797	79,328	4,25,268	172,490	9,30,439	93,519	3,08,937
Silk (Raw—Indian)	290	1,78,849	878	1,85,765	447	2,31,147	...	...
Areca	82,305	86,89,451	65,381	19,80,502	53,794	16,76,753	64,382	27,01,104
Cardamom	72	14,933	106	9,672	24	2,112	88	10,560
Pepper	5,043	3,47,646	4,445	1,99,583	3,093	93,523	...	...
Jaggery	77,389	7,87,762	44,508	2,86,159	9,054	40,194	28,976	1,44,680
Tobacco	168,998	81,68,950	97,744	49,85,762	104,603	51,91,875	72,814	99,12,560
Gram and pulse	716,212	45,09,317	780,984	44,68,624	698,658	49,82,366	790,650	39,54,250
EXPORTS								
	Mds.	Rs.	Mds.	Rs.	Mds.	Rs.	Mds.	Rs.
Ragi	222,741	7,98,983	199,557	4,41,516	168,955	2,65,290	192,499	9,91,767
Rice (in husk)	247,952	9,40,550	166,118	4,70,958	137,785	3,90,226	71,187	1,77,968
Rice (not in husk)	11,054	79,432	16,568	89,507	32,182	1,51,186	9,815	41,918
Cotton	125,436	40,43,003	98,535	22,68,345	78,678	16,74,228	81,121	16,92,420
Cocconut	150,285	6,72,849	199,447	6,72,224	250,676	8,02,453	218,394	8,78,576
Coffee	24,424	15,55,269	26,750	13,26,561	21,831	11,39,766	80,428	15,82,152
Groundnut	1,323,381	1,00,22,403	1,267,798	61,80,708	794,597	37,41,240	789,219	24,02,462
Silk (Raw—Indian)	6,742	42,87,953	4,793	23,12,924	4,592	22,28,029	...	...
Areca	192,947	55,76,965	146,688	45,63,943	174,468	55,18,814	142,269	59,75,298
Cardamom	11,844	21,04,591	10,195	10,82,771	9,892	8,43,050	13,176	14,61,120
Pepper	2,990	2,10,199	1,779	78,653	2,864	70,881	...	...
Jaggery	85,825	7,77,689	188,442	8,68,354	246,207	10,39,712	164,819	7,74,095
Tobacco	56,148	27,15,186	41,488	21,71,402	58,841	28,14,124	55,982	22,99,280
Gram and pulse	348,887	22,31,992	221,728	11,91,788	166,765	9,63,870	80,495	4,02,475

Statistics of Wages.

13. The fluctuations of wages of skilled and unskilled labour during the years 1920-21 to 1933-34 are indicated in the following statement:—

TABLE V.
Statement of Wages.

Years	Daily wages for skilled labour		Daily wages for unskilled labour		Cart hire per day	
	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.
1920-21	0 8 0	to 8 8 0	0 4 0	to 1 0 0	1 0 0	to 5 0 0
1921-22	0 8 0	to 8 0 0	0 4 0	to 1 8 0		Do
1922-23		Do		Do		Do
1923-24		Do	0 4 0	to 1 0 0		Do
1924-25		Do	0 4 0	to 1 8 0		Do
1925-26	0 8 0	to 8 4 0	0 4 0	to 2 0 0		Do
1926-27	0 8 0	to 8 0 0		Do		Do
1927-28	0 8 0	to 8 8 0		Do		Do
1928-29	0 14 0	to 2 12 0	0 7 0	to 1 4 0	1 4 0	to 4 0 0
1929-30	1 0 0	to 8 0 0	0 8 0	to 1 8 0	1 8 0	to 5 0 0
1930-31	1 0 0	to 2 8 0	0 6 0	to 1 0 0	1 4 0	to 8 8 0
1931-32	0 8 0	to 4 0 0	0 8 0	to 1 8 0	1 0 0	to 5 0 0
1932-33		Do		Do		Do
1933-34	0 8 0	to 4 0 0	0 8 0	to 1 0 0	1 0 0	to 5 0 0

III. CAUSES OF DEPRESSION.

14. The causes of the universal fall of prices in recent years are thus summarised in the "World Economic Survey, 1932-33, League of Nations":—

"There is general agreement that the causes of the decline of prices are many and complex. Important and far-reaching changes in the geographical and technical structure of industry and trade; equally important social developments, such as a rising standard of living, together with lessened flexibility of adjustment; political difficulties arising from reparation and war debt payments and tariff wars; monetary arrangements connected with the post-war currency stabilisations and the working of the new gold standard after it has been restored, international capital movements, security speculation and exchange difficulties—all entered into the back ground of the price fall. The exact degree to which these various factors entered into the combination of causes which precipitated the depression has been a subject of lively controversy."

It would clearly be beyond us, even if it did not fall outside the scope of our task, to try to elucidate a subject of such complexity. We may, however, note that, apart from world causes, whatever they might be, there are no factors that we can see of a purely local character that could have contributed to or aggravated the fall in prices. But more than the causes, we are concerned with the fact of the depression itself, which has been a hard and persistent reality for over four years and with its effects on our agricultural population which, for the most part, are readily discernible.

IV. MOVEMENT OF PRICES.

15. Regarding the prices of the principal agricultural products in Mysore, we have received information from several sources, and some of the members of our Committee have made special enquiries for the purpose in important trade centres. The information thus collected is interesting. But for our immediate purpose, *viz.*, that of illustrating the movement of prices over a long period, we have found it more convenient to confine our attention to the price statistics of Bangalore City. Other trade centres may be more important in respect of particular commodities, *e.g.*, cotton, areca, coffee, etc., but the price fluctuations therein are necessarily reflected in the quotations of Bangalore City also, the local variations, if any, being due generally to constant factors, such as, the cost of transport. Further, an authoritative and continuous record is available for Bangalore in the market reports published by the Chamber of Commerce. The accompanying statement showing the wholesale prices for the period 1914-1934 has been prepared on the basis of these market reports.

TABLE VI.

Statement of Prices of Certain Commodities in the Months of June during the years 1914 to 1934.

Name of commodity	1914	1915	1916	1917	1918	1919	1920	1921	1922	1923	1924	1925	1926	1927	1928	1929	1930	1931	1932	1933	1934
	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.
Paddy (per cart-load of 640 seers).	86 0	86 0	85-42	84-40	42-48	68-80	60-75	60-65	68-70	48-50	64-65	61-66	55-61	60-64	55-56	49-45	96-41	28-26	24-28	25-26	22-26
Rice (per patta) ...	15 8	16 0	14-19	14-20	16-25	27-32	22-25	18-29	22-28	17-24	21-28	22-26	20	20-26	19-26	19-25	14-21	10-15	11-14	11-19	10-14
Bagi (per cart-load of 640 seers).	86 0	86 0	85-40	84-40	40-44	95-100	87-92	70-76	68-72	54-58	63-65	68-70	70-74	68-70	64-68	56-64	40-48	20-25	86-40	27-28	26-30
Cholam (per patta).	8 0	8 0	6-8	6-7	12-18	16-17	18-14	16	12-13	11	18	19	11	12-18	10-11	10	7-8	5-5	5-6	6-7	5-6
	Seers	Seers	Seers	Seers	Seers	Seers	Seers	Seers	Seers	Seers	Seers	Seers	Seers	Seers	Seers	Seers	Seers	Seers	Seers	Seers	Seers
Horsegram seers per rupee.	14	14	13-14	12-13	9	6-7	6-6	5-5	5-6	9-9	6-6	8	9-10	5-5	7	9-10	12-12	14-14	13-13	8	18-18
	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.	Rs. a. p.
Cocconut (per 1,000).	44 0	39-40	43-44	40-60	50-60	70	70-75	55-60	70-71	72	83	80-85	60 0 0	55-60	60-65	53-58	40-45	28-35	46-55	40-41	28-32
Arecanut (per maund of 25 lbs.)	9 8	9 8	7-14	9-14	8-11	10-14	9-13	8-12	13-15	13-14	18-20	15-16	17-18	14-16	18-15	13-16	10-12	9-10	12-14	11-12	9-10
Groundnut (for 210 seers).	8 0	8 0	9-10	9-10	9-10	28-30	24-25	18	28 8	20-21	28-24	22-23	22 0 0	19-19	18-19	14 8 0	13-14	9 8 0	18-14	6-7 for 100 seers.	6 for 100 seers.
Jaggery (per maund of 28 lbs.)	1 14	1 14	2 2 to 2 10	1 15 to 2 8	1 8 to 1 12	2 6 to 2 14	5 0 to 5 2	4 8 to 5 0	2 12 to 2 2	2 1 to 2 2	3 12 to 4 4	3 8 0 to 3 12 0	2 12 0 to 3 0 0	1 12 0 to 2 6 0	2 1 0 to 2 8 0	3 6 0 to 4 4 0	1 14 0 to 2 8 0	1 0 0 to 1 4 0	1 4 0 to 1 10 0	...	1 4 0 to 2 0 0
Cardamom per 25 lbs.	...	...	...	24-28	20-22	18-24	35-40	20-25	40-50	70-75	95-100	120	60-65	40-45	85-90	70-80	42-52	20-25	35-40	...	21-22
Silk cocoons	...	...	...	...	...	...	...	...	...	...	0 10 2	0 9 8	0 9 6	0 9 8	0 8 3	0 7 6	0 4 7	0 5 0	0 4 10	0 8 0	...
Coffee, Peaberry	...	...	14-15	12-18	12-14	20-23	21	15	25	20-22	28-24	23-24	28-29	25-29	108-105	118-115	85-88	82-84	96-98	...	85-88
Do Parchment	...	...	10-11	9-9	9-11	15-16	15 8 0	12	24	14-14	18-20	16-17	28-24	19-24	per cwt. 87-91	96-99	78-81	72-74	78-76	...	66-68
Do Native	...	...	9-10	7-8	8-9	18-14	12 8 0	8	16-18	...	...	...	...	...	per cwt. 20-22 & 17-19 per 28 lbs.	22-19	14-15 } 14-14 } 69-70- } 12-12 } 9-10 } 55-58 }	...	40-42		
Cotton, small cuppas per maund.	...	...	...	...	...	...	...	...	...	...	5 15 8	4 3 6	3 4 6	3 5 6	3 15 9	3 7 6	2 2 6	1 14 0	1 18 6	1 11 8	1 12 6
Do big cuppas per maund.	...	...	...	...	...	...	...	...	...	...	6 2 6	4 9 0	3 5 0	3 7 6	4 7 0	3 7 8	2 6 9	1 14 8	2 0 0	1 11 0	1 12 0
Javary cotton per candy of 500 lbs.	...	...	...	...	...	...	...	...	...	...	385 0 0	286 0 0	196 0 0	201 12 0	238 5 8	202 2 6	185 0 0	120 11 0	106 7 0	108 8 0	112 5 0
Double roller cotton for 500 lbs.	...	...	...	...	...	...	...	...	...	...	400 8 0	275 0 0	196 5 0	181 4 0	227 1 0	211 0 0	144 11 0	108 5 0	129 0 0	101 8 0	106 6 0

Between the years 1914 and 1920, there was a gradual rise of prices from year to year and the pinnacle was reached in the year 1919-20 following the cessation of the Great War. Subsequent to 1920, the prices began to fall until 1923 when they rose again and kept steady until 1928. They commenced declining once again after 1929. The fall continued from year to year until 1932, when it was arrested and the prices showed a tendency to rise. This rise was, however, very temporary and the prices began to decline once again until they reached their lowest level in June 1934.

Extent of
Fall.

A comparison of the prices in June 1934 with those that prevailed in 1929 will show that the prices of all the commodities had not fallen in the same proportion. Ragi, groundnut, mulberry and jaggery suffered most, the prices having come down to nearly a third of the 1929 level. But speaking generally, it may be stated that in the aggregate, the prices of agricultural commodities had fallen by nearly 50 per cent during these four years and that the gross money value realised by the agriculturist must have decreased to that extent.

16. Soon after the Committee commenced its work (about August 1934), a marked increase of prices occurred in the case of some of the staple products, like rice, ragi, jaggery, etc. This was probably due to the apprehended shortage of crop owing to the failure of rains and other causes. But this rise in prices came too late in the year to bring any relief to the majority of the agriculturists who had already parted with their stock of surplus grain. Further, being the result of popular scare and of the speculative activities which follow in its wake, it proved to be shortlived and the recent rains have brought down the prices again to some extent. But even at their present level, the prices of food grains, particularly ragi, are distinctly better than they have been in recent years, though their continuance cannot be counted upon. In the case of commercial crops, such as areca, cotton, etc., there has been no improvement even for a brief period.

The changes of price since June 1934 are shown in the following table:—

TABLE VII.
Change in Price of Certain Commodities since June 1934.

Commodity	June 1934	July 1934	August 1934	September 1934	October 1934	November 1934
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
1. Paddy (640 seers) ...	22-26	22-26	22-30	32-36	38-42	35-40
2. Ragi (640 seers) ...	22-24	26-30	28-30	33-38	46-50	42-45
3. Oholam (100 seers) ...	5 12 0 to 6 8 0	5 12 0 to 6 8 0	5 8 0 to 6 8 0	6 8 0 to 7 0 0	8 8 0 to 9 0 0	9 0 0
4. Horsegram (per rupee) ...	13½ to 14 seers	13 to 13½ seers	13 to 13½ seers	11 seers	10 seers	11½ to 12½ seers.
5. Coconut (per 1,000) ...	28-32	28-32	30 to 36	30 to 36	27 8 0 to 35 0 0	30 to 35
6. Groundnut (per md. of 45 seers)	0 10 0 to 0 11 0	10 annas to 12 annas.	0 15 0	0 15 0	1 0 0	1 0 0
7. Jaggery (per 28 lbs.) ...	1 4 0 to 1 14 0	1 4 0 to 1 14 0	1 12 0 to 2 8 0	2 6 0 to 2 14 0	2 4 0 to 2 8 0	2 0 0 to 2 8 0
8. Copra (per 24 lbs.) ...	8 12 0 to 4 0 0	8 8 0 to 4 0 0	8 8 0 to 4 0 0	8 0 0 to 8 4 0	8 2 0 to 8 4 0	8 0 0 to 8 4 0
9. Areca (per 25 lbs.) ...	8 8 0 to 10 0 0	8 8 0 to 10 0 0	8 8 0 to 10 0 0	8 8 0 to 9 8 0	7 8 0 to 8 4 0	7 8 0 to 8 4 0
10. Cardamom (per 25 lbs.) ...	21-22	20-21	25-30	25-30	25-30	25-30
11. Coffee, per cwt.						
Peaberry ...	82-85	85-88	85-88	85-88	86-88	86-88
Parchment ...	86-88	86-88	86-88	86-88	82-85	82-85
Native Flat ...	40-42	40-42	40-42	40-42	40-42	40-42

V. EFFECTS OF THE DEPRESSION.

17. In considering the effects of the agricultural depression, severe as they are, we must not fail to note that the situation is not without some satisfactory features. In the first place, as the figures in Table III will show, there has been no shrinkage in the area under cultivation. On the other hand, the acreage under all the principal food crops (except jola) shows a material increase.

Secondly, during the whole of the period of depression (with the exception of the current year), the rainfall and seasonal conditions have been generally favourable and the outturn of crops, particularly of the food-crops, has been better than the average.

Thirdly, there has been no lack of employment for agricultural labour.

Fourthly, the statistics of railborne exports and imports show that, taken as a whole, the external trade of the State had not suffered seriously in volume, although, of course, it is reduced in value.

But for these favourable factors, the situation would have been one of extreme gravity. And even as it was, the agricultural classes found themselves in serious difficulty. During the period of high prices following the conclusion of the war, their standards of living had risen and entailed a larger expenditure for the purchase of articles and services required to meet their increasing wants. At the same time, their debt had also increased as the appreciation of land values had tempted and enabled them to borrow more largely. The reduction of the money income by about one half which was the direct result of the slump, made it impossible for many of them to live in the style to which they had got accustomed and at the same time to meet their extended obligations.

18. It cannot, however, be said that all classes of raiyats are equally affected by the fall in prices. Field labourers who constitute about a fifth of the agricultural population are little worse off than before. Their wages in grain remain unchanged. Money wages too kept steady during the earlier years of depression and if they since declined, the fall has been less in proportion than the fall in prices so that the "real wages" of agricultural labour have scarcely suffered.

Effect on
Several
Classes.

The tenant cultivators have no obligation to pay taxes. Their rents are generally paid in kind and even where money rents are in vogue, they are, except in the Malnad, generally in a position to dictate their own terms to their landlords.

The peasant proprietors form the bulk of the agricultural population. They generally grow all the grain required for their household requirements and such small amounts as they require for payment of services, taxes, etc., are obtained by selling non-food crops or from the profits of subsidiary occupations. There are a variety of such occupations available in the vicinity of towns and cities, (*e.g.*, selling milk, curds and vegetables, hiring of carts, etc.) which still form an important source of income to the suburban raiyat. But the peasant owners in the interior parts have no such advantages. The cultivation of non-food crops, the rearing of cattle, goats, sheep and silkworms and such like occupations on which they depended have ceased to be remunerative. Besides, it is believed that this class of agriculturist is more heavily in debt than either the tenant cultivator or the labourer who enjoys comparatively little credit.

The classes which are most hard hit by the depression are the landholders who do not cultivate their lands at all or cultivate only a small portion of their holdings. The lands are leased to tenants and a certain proportion of the lands generally lies fallow. Except in the Malnad, the financing of cultivation, including the payment of all fixed charges, falls upon them, and their debt is of serious proportions.

19. The fall in prices has not affected the growers of all the crops to the same extent. The cultivators of some of the crops have particularly suffered, while the hardship in the case of others is not relatively so great. An attempt was made to evaluate the income, extent and net profits per acre in respect of each crop, but the information that we obtained was so discrepant that we were unable to base any definite conclusions on it. We are, however, satisfied that in the cultivation of some of the crops like ragi, jola, cotton and groundnut, the margin of net profit left to the cultivator is comparatively low. Groundnut cultivation, particularly, has had considerable vicissitudes owing to the abnormal fall in the value of the crop to nearly a third of its original price, so much so that it seemed almost unprofitable to continue the cultivation of this crop.

Effect with
reference to
Crops.

Value of Land.

20. The registration statistics show that the amount of sale and mortgage transaction rose from Rs. 192 lakhs and Rs. 193 lakhs in 1920-21 to 238 lakhs and 224 lakhs respectively in 1929-30, when the prices of the agricultural commodities had reached a high level. Since then, on account of the fall in the return from land consequent on the abnormal fall in the prices, there has been reluctance on the part of the people to invest their money in land and a preference to make better profit by money lending or other means, such as investment in Government Securities, etc. This tendency is reflected in the reduced value of registered sales and mortgages, which stood at Rs. 1,67,45,200 and Rs. 1,57,85,625 respectively per year, on the average, during the period of depression.

Such information as we could obtain shows that the fall in land values varies from 25 to 75 per cent in different parts of the State. Speaking generally, we are inclined to think that 50 per cent may be taken as the average decline in the value of land.

TABLE VIII.

Statement showing the Number and Value of Transactions in the Mysore State by Sale and Mortgages during the Years 1920-21 to 1933-34.

Year	Sales		Mortgage	
	No.	Amount	No.	Amount
		Rs.		Rs.
1920-21	62,912	1,92,55,649	64,164	1,98,27,888
1921-22	64,227	1,93,97,658	65,798	1,96,46,173
1922-23	69,466	1,92,51,065	61,260	1,81,60,276
1923-24	65,787	1,62,67,568	61,919	1,78,37,308
1924-25	68,983	2,03,67,541	69,808	1,96,91,893
1925-26	69,801	1,99,50,244	79,079	1,90,63,088
1926-27	69,725	2,14,22,225	70,668	1,91,01,312
1927-28	76,298	2,27,80,717	74,949	2,09,61,972
1928-29	79,559	2,43,38,624	78,956	2,16,76,428
1929-30	74,943	2,38,36,547	74,208	2,24,62,296
1930-31	57,746	1,69,32,980	67,084	1,89,11,340
1931-32	58,092	1,64,76,840	62,605	1,89,01,764
1932-33	66,602	1,78,99,078	64,817	1,65,16,278
1933-34	61,215	1,56,71,900	45,106	1,28,18,129

Agricultural Credit.

21. The agricultural depression has had marked effects on the credit of the cultivator and the relations between the money lender and the borrower. The inflation of prices after the war and the consequent appreciation of landed security enabled the agriculturists to command greater credit, and this was fully availed of by the bulk of them. The indebtedness increased owing to fresh borrowings on the top of the old debts, swelling the interest charges which the agriculturists had to pay from their income. Since the depression began, the payment of interest has ceased to be regular, and it is believed that the liability has, during the past four years, greatly increased. In these circumstances, it is natural that the money lenders should be chary of giving fresh loans on the security of lands which are declining in value. The value of registered mortgages, as stated already, has declined to an appreciable extent. It is understood that current mortgages do not, in many cases, represent fresh money lent, but are merely cover for previous unsecured debts. If there is one thing that has been unequivocally brought out in the information supplied to the Committee from various quarters, it is the contraction of agricultural credit at the present time and the tendency on the part of moneylenders to limit fresh business.

Co-operative societies have had perforce to adopt a similar policy in the issue of loans to their members. As the Registrar of Co-operative Societies has observed in his Report for the year 1932-33, "there was contraction in the grant of loans, by both the banks and societies, with the consequence that much surplus capital which would have been loaned out remained idle. Deposits could not be accepted, and the rate of interest on them was also reduced. Owing to the non-realisation of interest from members on the loans issued to them, the profits earned decreased, and consequently, the rates of dividend declared by many of the societies were less than in previous years."

VI. AGRICULTURAL INDEBTEDNESS.

22. Several investigations have been made in the past by the Co-operative Department and by individual investigators to ascertain the extent of agricultural indebtedness in different parts of the State. These investigations, so far as reliance can be placed upon them, show that even in villages where the burden of debt is comparatively light, 50 per cent of the agricultural population are indebted and the average debt per agriculturist is about Rs. 20. At the other end of the scale are found villages in which there is hardly a family without debt, which averages Rs. 100 per head or more.

Estimate of Debt.

According to the calculations made by the Banking Enquiry Committees of Bombay and Madras, the average debt of the agriculturist in these provinces is said to be Rs. 50 and Rs. 49 respectively. As the conditions in this State are not very different, we shall not perhaps be far wrong in assuming Rs. 50 as representing roughly the average debt of the agriculturist in Mysore. On this basis, it would appear that the agricultural debt in the State must have been in the neighbourhood of Rs. 25 crores before the depression set in. As a result of the depression, the interest charges have remained mostly unpaid so that the volume of the total debt at the present day, inclusive of the accrued interest, would not be less than Rs. 85 crores. This represents nearly 30 times the land revenue assessment of the agricultural lands.

In the replies received to our questionnaire, the opinion is generally expressed that the volume of debt of the landowners, large and small, has been very much on the increase and that in a fairly large number of cases, the debt is very nearly equal to, if not greater than, the value of the assets of the debtors and that in these cases the liquidation of the debt from the current income is out of the question.

23. As regards the effects of this huge volume of indebtedness on the economy of agriculture, we cannot do better than quote the following passages from the Report of the Indian Central Banking Enquiry Committee :— Effects of Debt.

“The existence of a heavy burden of debt exercises a most detrimental influence on agricultural progress. An important source of credit is not only drained for unproductive purposes but the potential credit available for improvement is also correspondingly curtailed. In the case of usufructory mortgages particularly, the mortgagor too often declines to the position of a permanent tenant under the mortgagee, paying not a fair rent, but the utmost the lender can extract or extort.”

“The cultivator is obliged by reason of his indebtedness to sell his produce to his creditor at an unfavourable season and at a price detrimental to himself. When money-lenders are also shopkeepers and commission agents, they often make it a condition that the agriculturists' produce must be sold through them. This very seriously affects the liberty of action in marketing the produce Even when the moneylender is not a trader and does not want to buy the produce, he knows that if the debtor does not pay after selling his produce, it will not be possible for the latter to pay till after the next harvest. He has, therefore, to put pressure on the debtor immediately after the harvest, and the effect of this pressure is so great that the borrower is compelled to dispose of his harvest as quickly as he can. As every grower is equally pressed for cash and has to sell at the same time, the price obtained by the cultivator is naturally depressed in consequence.”

24. The situation is one of urgency and calls for measures of relief of an expeditious character. We have studied the action taken and the proposals made to meet the situation in the various parts of British India and Indian States and note that they generally proceed upon the following lines :— Lines of Relief.

- (i) Controlling rates of interest on loans, sometimes with retrospective effect.
- (ii) Prevention of expropriation of agriculturists during the present period of depression ;
- (iii) Establishment of Debt Conciliation Boards, and
- (iv) Enactment of a simple rural insolvency law.

The measures coming under the first category will be dealt with in a later part of our report.

25. The action taken or contemplated under the second head comprises the enactment of special measures of agricultural relief having for their object the prevention of the sale of land unless it is specifically mortgaged, the empowering of courts to permit payment of debts in instalments instead of subjecting the properties precipitately to sale and allowing courts to go behind the transaction and reduce the interest in cases where this is found to be oppressive. Legislation on these lines was introduced in Mysore in 1928 by the enactment of the Agriculturists' Relief Regulation which applies to agriculturists whose yearly income from sources other than agriculture does not exceed Rs. 500 and the aggregate income from all sources does not exceed Rs 1,000. Under its provisions, immoveable property which is not specifically mortgaged for a debt is exempt from sale and in the case of all debts, secured as well as unsecured, courts can permit repayment in instalments extending normally up to eight years. This Regulation has now been extended throughout the State and the concessions afforded therein are available to all persons coming within the meaning of ' agriculturists ' as defined therein. Agricul-
turists' Relief
Regulation.

26. Among measures of a more drastic character which have been suggested under this head are the scaling down and re-assessment of debts with reference to the fall in the value of the agricultural commodities, the regulation of sales of land in execution of decrees against agricultural debtors so as to ensure that the creditors do not get more land now in satisfaction of their debts than they could have had but for the slump, and the postponement of the sale of the debtor's immoveable properties in execution of decrees until the situation improves. These measures, although they have been sometimes advocated, have not, so far as we are aware, been adopted in any Province. Obviously, they raise issues of a highly controversial character. Other
Measures.

27. The idea of establishing Conciliation Boards found expression in the recommendation of the Royal Commission on Agriculture that in areas where debt is known to be beyond the capacity of the people to pay, conciliation bodies might be tried. The Indian Debt Con-
ciliation—Action
taken
Elsewhere.

Banking Enquiry Committee was also of the opinion that the problem of indebtedness should be tackled by bringing about conciliation between the debtors and creditors with the object of securing a composition of the standing debt. With the increase in the volume of this debt caused by the slump, the need for some conciliation procedure is being widely recognised. A scheme of debt conciliation has been carried out in the Bhavanagar State by which a debt of nearly 86½ lakhs is said to have been compounded for 20½ lakhs and the whole debt has been paid off by the Government of that State. An Act has been passed for the conciliation of debts by the Legislature of the Central Provinces in the year 1933, and so far six Debt Conciliation Boards are said to have been established under the Act. Till the end of August 1934, these Boards settled debts amounting to Rs 27.76 lakhs for Rs. 15.86 lakhs, reducing the debt by 41 per cent. The main feature of the scheme of the Central Provinces is the appointment by Government of Conciliation Boards to examine the entire transaction and adjudicate the amount to be repaid and determine the mode of repayment with reference to the nature of the loan, the relation between the parties, etc. The scheme provides that if creditors to whom not less than 40 per cent of the debts are due come to an amicable settlement with the debtor, such settlement shall be reduced to writing in the form of an agreement and shall take effect as a decree of Civil Court and that in cases of refusal by the creditor to agree to the settlement considered fair by the Board, a certificate shall be granted by the Board and that from the date of such certificate, the courts will not allow costs or interests on the debts in excess of 6 per cent.

Legislative action on more or less the same lines is understood to be under contemplation in some of the other British Indian Provinces also.

28. This question was considered by us at a number of meetings. We have also had the benefit of a discussion on the subject with Mr. M. L. Darling, I.C.S., Officer on Special Duty with the Government of India, who was good enough to be present at one of our meetings.

Recommendation.

We consider that a measure of debt conciliation might with advantage be tried in Mysore so that the standing debt may be brought down within the repaying capacity of the debtor. It is seen that a large number of raiyats' holdings have already been sold in satisfaction of debts and further losses are likely to ensue unless adequate action is taken. We are not unaware of the possible criticism that even if the entire debt is wiped out, a debt of as large a magnitude may reappear in a few years. Some of us consider that conciliation may shake the credit of the agriculturist and produce other undesirable effects. But the situation just at present is so extraordinary and the volume of debt which has accumulated is so great that such a measure appears to most of us to be unavoidable if the agriculturists as a class are to be enabled to preserve their lands.

Conciliation of debts is not new in this country and instances are not wanting in which even at the present day the debtor and creditors conjointly seek the aid of a panchayet to effect a composition of the debts, so that while the creditors forego a portion of what might be justly due to them something is left to the debtor wherewith he can live and make a fresh start in life. It is the weakening of this traditional spirit of give and take that makes resort to legislation necessary.

We understand that, in places where the scheme of conciliation has been tried, creditors have freely resorted to it and a large volume of debt has been compounded. The main reasons which have influenced the creditors in consenting to conciliation are the saving of the heavy cost on account of stamp fees and other court charges and the avoidance of the uncertainties and worries of litigation. Even secured creditors have, it would appear, been willing in many cases to come under the scheme provided their preferential position is safeguarded.

Conciliation Boards.

29. As regards the agency for conciliation, the Indian Central Banking Enquiry Committee recommended the appointment of special officers in each Province for bringing about conciliation by means of propaganda. The enactments which have either been passed or which are under contemplation in the British Indian Provinces provide for the establishment of Debt Conciliation Boards in each district or part of a district consisting of a chairman and two or more members appointed by the Local Government. For our own part, we consider, having regard to the conditions prevailing in Mysore, that it would be better to appoint *ad hoc* Boards for each case preferably from among the persons residing in the area to which the debtor or the creditors belong, so that they can bring to their aid their personal knowledge of the local conditions, the relationship between the parties and the nature of the transactions. The Board might be composed partly of nominees of the debtor and partly of those of the creditor with a chairman to be selected by the court.

30. The Central Provinces Act and the Bills under contemplation in the other British Indian Provinces provide for the proceedings in conciliation commencing with the application by a debtor or a creditor to the Conciliation Board; we consider that application should be filed before the Civil Court having jurisdiction in the area, which may, in the first instance,

ascertain whether the case is one fit for going before the Conciliation Board, and may refer only such cases to the Board for settlement.

31. We consider that the Debt Conciliation Boards should be guided by certain definite principles in arriving at the amounts for which debts should be compounded. We therefore suggest that the following aspects should be considered by the Boards in arriving at a decision :—

Principles of Conciliation

- (i) The amount of consideration actually received ;
- (ii) The reasonableness or otherwise of the rates of interest contracted for ;
- (iii) The amount of interest that has been allowed to accumulate ;
- (iv) Onerous conditions, if any, that have been coupled with the grant of loans ; and lastly,
- (v) The repaying capacity of the debtor.]

While the secured as well as the unsecured debts will be reviewed on the above considerations, in the matter of realisation, however, the secured debts will have preference over unsecured ones. In cases in which the conciliated debt cannot be paid immediately, but is ordered to be paid in instalments, payment of reasonable interest on the compounded debt should be provided for, unless equated payments including interest are fixed.

32. We would accordingly recommend a scheme on the following lines :—

Details of Scheme.

A debtor or any of his creditors may apply to the Civil Court of competent jurisdiction to effect a settlement, provided that no application should be made if the total debts exceed a sum to be fixed with particular reference to the conditions of the agriculturists in Mysore. We would, for the present, limit the cases to go before the Board to those in which the total amount of debt does not exceed Rs. 10,000. Every application presented by the debtor should furnish complete particulars regarding his assets and liabilities together with a statement that he is unable to pay his debts ; while the application presented by the creditor should furnish information about the amounts and the particulars of his claims against the debtor. The court should, on receipt of this application, and after such enquiry as might be necessary, appoint a Conciliation Board consisting of not less than three or more than five members, of whom an equal number should be nominated by the debtor and the creditors respectively, the chairman being selected by the court. The Board should call upon the debtor and his creditors to explain their respective cases and endeavour to induce them to arrive at an amicable settlement and for that purpose, it should have the power to require the attendance of witnesses and the production of documents and to receive evidence. It might also submit a special case for the opinion of the court on any question of law involved. If all or any of the creditors come to an amicable settlement with the debtor, such settlement should be reduced to writing in the form of an agreement recording the amounts payable to the creditors and the manner in which and the times at which they are to be paid and the court shall pass a decree in terms of such agreement.

If a debtor defaults in paying any amount fixed under a decree, such amount should be recoverable, in the first instance, as arrears of land revenue on the application of the creditor made within 90 days of the date of default and if the Deputy Commissioner fails to recover any part of the amount as arrears of land revenue, the matter should be reported to the Civil Court and thereafter the amount shall be recoverable through the process of the court.

If, however, any creditor does not agree to an amicable settlement, the Board, may, if it is satisfied that the debtor has made such creditor a fair offer which the creditor ought reasonably to have accepted, grant the debtor a certificate in such form as may be prescribed in respect of the debts owed by him to such creditor provided that the creditors to whom not less than 40 per cent of the debts are owing have come to a settlement. In the event of a creditor filing a suit for the recovery of debts in respect of which a certificate shall have been granted, the court shall not allow the plaintiff any costs in such suit or any interest on the debt after the date of certification in excess of simple interest at 6 per cent per annum on the amount due on the date of such certificate and if the suit is in respect of an unsecured debt, the execution of the decree passed in the suit shall be postponed till all amounts due under the settlement are paid, or till the agreement has ceased to subsist.

33. The question whether conciliation should be voluntary or compulsory was discussed by us at some length. Some of the members considered that the principle of compulsory conciliation would affect the credit of the agriculturist and that therefore the scheme, if introduced, should be only on a voluntary basis, that is to say, it should be open to any party to accept or reject the offer of the Conciliation Board. While all of us are agreed about the desirability of introducing a scheme of voluntary conciliation on these lines, some of us are inclined to doubt whether this will by itself be sufficient. Although the parties may come to a voluntary settlement, there may be cases where the creditors will not agree to conciliation and the whole proceedings may prove futile. The Indian Central Banking Enquiry

Conciliation—
Voluntary or
Compulsory.

Committee have suggested that in cases in which the lender will not agree to a voluntary settlement of the debt, it will be necessary to take action to secure a compulsory settlement by means of legislative enactment. Such of us as hold this view would therefore suggest that while the scheme may generally be of a voluntary character, the possibility of having to introduce some measure of compulsion should not be overlooked. Provision may, therefore, be made in the Regulation to be enacted, whereby the Government may be enabled to extend the scheme on a compulsory basis in such areas in which they may consider such extension advisable or expedient. Under the compulsory scheme, whenever the parties do not come to a settlement, it should be open to the Board, after considering the case on its merits, to pass an award indicating the amounts payable to the creditors and the manner in which and the times at which the same should be paid and such award should be reported to the Civil Court concerned which would pass a decree accordingly.

**Payment of
Compounded
Debt.**

34. A scheme of conciliation to be successful should provide for some effective means of repayment of the compounded debt. The creditors could be induced to make considerable sacrifices if the compounded debts are paid down in cash or their repayment without any further effort on their part is assured to them. The methods of assistance generally provided by Government for this purpose are either direct or indirect :— (1) the Government may itself pay off the creditors or guarantee payment to them, or (2) the payment may be made by banking institutions financed and controlled by the State, or (3) Government may only undertake to recover the settled debt by instalments, as they fall due, as arrears of land revenue.

The first method of paying off the creditor in cash has been adopted in the Bhavnagar State. The Government of Cochin has recently sanctioned a scheme of advancing money to creditors for part of the debt due to them by the debtors and of assigning to them bonds guaranteed by the Government for the balance of the debt. Lands of sufficient value are to be hypothecated by the debtors for the loan, which is made repayable in 30 years along with interest at 6 per cent. The question of issuing bonds by Government for paying the debts is said to be under contemplation in one of the British Indian Provinces also.

The payment of the debt by the State in cash or bonds is the more simple and efficacious method, but practical considerations and the amount involved preclude any attempt at its adoption in our State.

**Co-operative
Societies and
Land
Mortgage
Banks**

The appropriate agencies in our view for paying off the liquidated debts, or at any rate, a portion thereof, are the Co-operative Societies or the Land Mortgage Banks, according to the length of the term over which the recovery has to be spread. It must, however, be recognised that whether repayment is made by the Government or any other agencies they can help only in cases where the debtor has adequate security to offer. The Land Mortgage Bank has at present been granting loans up to 50 per cent of the value of the properties to be hypothecated as security for the loans, and this margin has been adopted apparently in view of the fluctuations in the value of land and the risk on account of the possible deterioration of the properties. It is, no doubt, a wholesome practice and one which has stood the Bank in good stead in its transactions before the depression set in, but now that land values have gone down to very near the minimum, a margin of 50 per cent is, in our opinion, unduly restrictive. Having regard to the potential increase in the value of lands, we would propose that the limit up to which loans may be sanctioned may well be raised to 70 per cent of the present market value as the maximum.

35. The proposals made by us would necessitate the extension of the operations of the Land Mortgage Banks on a large scale, and even apart from the introduction of conciliation procedure, there is need for the rapid extension of Land Mortgage institutions throughout the State for the amortization of the agriculturists' debt, as also for providing the agriculturists with long term credit.

The Land Mortgage Bank in Mysore which was started for this purpose in November 1929 confined its business at the beginning to three taluks in the Malnad and one taluk in the Maidan. Its operations have gradually extended and at the end of last year covered fourteen taluks and two sub-taluks. The Government have recently sanctioned the extension of the scheme to four more Taluks. The authorised share capital of the Bank is Rs. 5,00,000. In addition, the Government have permitted the Bank to issue debentures up to Rs. 20 lakhs and have guaranteed the repayment of the interest as well as principal of the debenture loan. The President of the Bank and the Trustee are nominated by Government and the institution is subsidised by Government in respect of its working expenses. With the experience so far gained and the support which the Government have accorded to the scheme, its further development seems to be assured. It should not be many years before primary banks are established in all the taluks of the State. These banks will be of material assistance in bringing about the conciliation of debts as well as in arranging for their discharge.

36. The Co-operative Societies and Land Mortgage Banks can advance loans only to those debtors whose assets afford the margin of security required by these institutions.

In the case of persons who are unable to give such security, though solvent, the only relief that can be given is to allow them to pay in instalments spread over a fairly long period and to provide them with a certified statement of their debt obligations.

37. There would still remain a class of debtors whose conciliated debt being far in excess of their assets must be dealt with in a different manner. Such debtors should be afforded a chance of surrendering all their assets and being adjudged as insolvents so that they may earn their living, if they can, freed from the perpetual bondage of an impossible debt. We consider that in such cases the Conciliation Board should report the matter to the court concerned which may, in the absence of any valid objection or reasons to the contrary, deal with the reference as if it were an application under the Mysore Insolvency Regulation. For this purpose, it is not necessary to insist that the debts of the debtor should amount to Rs. 500 (*vide* Section 10 of the Insolvency Regulation of 1925); a lower limit would be enough. The courts may also be empowered to make an order under Section 74 of the Regulation for the administration of the debtor's estate in a summary manner although the value of the property may exceed, in value, five hundred rupees. We would suggest that this latter limit may be suitably increased.

Rural
Insolvency.

VII. AGRICULTURAL FINANCE.

38. The following are the main agencies which have been providing credit to the agriculturist :—

- (i) Government.
- (ii) Co-operative institutions.
- (iii) The private moneylenders and Joint Stock Banks.

39. The Government have been granting loans for agricultural purposes under the Land Improvement Loans Regulation and takavi loans under Section 194 of the Mysore Land Revenue Code. The former are granted for carrying out works which add to the letting value of the land and the latter for purposes which mostly come under what are known as short term credit, such as the purchase of seed grain, ploughing cattle, fodder, manure, construction of agricultural houses, purchase of agricultural implements, etc. During the years 1920-21 to 1933-34, a sum of Rs. 22½ lakhs has been advanced on account of Land Improvement Loans and Rs. 17½ lakhs as takavi loans. These loans bear a low rate of interest and in view of the depression, the rates of ordinary and penal interest have been further reduced from 5½ and 8 per cent to 5½ and 6½ per cent respectively for a period of one year from January 1934. Having regard to the present condition of the agriculturist and the difficulty felt by him for meeting his current needs for agricultural operations, we recommended to Government, as an emergent measure of relief, the grant of takavi loans on a liberal scale and the increase of the allotment for the current year by another lakh of rupees for the purpose. In regard to interest, we considered that the present rate was capable of further reduction and recommended that during the period of depression loans might carry interest at 4 per cent. Our recommendations have been, in the main, accepted by Government and the grant has also been increased during the current year to one lakh of rupees. We have no doubt that further grants will be available, if required.

Government
Loans.

The system of Government loans is serving a useful purpose and meeting a real need, though its benefits are unfortunately limited. The chief complaints in regard to the administration of these loans are that the funds provided for the purpose are not enough, that the system is not sufficiently well known to the people, that there is delay in the disposal of applications and that repayment of the instalments is enforced too rigorously.

40. There is doubtless some foundation for these complaints though they are apt to be exaggerated. Some delay is inevitable as the necessary enquiries preliminary to the grant of loans have to be carefully carried out and greater elasticity in the rules would increase the temptation to unwise borrowing while a scrutiny of the security offered, supervision to ensure that the loan is actually expended on the improvement for which it is granted and insistence on regular recoveries are all necessary in the interests of the borrowers themselves. We agree that unnecessary delay should be avoided and the applications should be disposed of promptly, say, within a period of three months, if relief is to reach the agriculturists in time.

Improvement
Suggested.

As regards the period of repayment of loans, the existing rules allow sufficient latitude, but it would appear that in practice the officers granting loans do not generally fix the period with reference to the income derivable from the improvements and the repaying capacity of the borrower. In the case, for instance, of loans for the construction and repair of wells, the maximum period of repayment is 30 years. But we gather that only in rare cases is a period exceeding ten years actually allowed. We consider that in granting loans for permanent improvements involving heavy outlay, the sanctioning officers should be required to

fix the number of instalments in a liberal manner so that the income from the land may not have to be utilised solely towards the repayment of the loan, but may leave enough for the current demands of cultivation and the raiyats' personal requirements.

Wide publicity should be given to the takavi and Land Improvement Loan Rules so that the agriculturists in the remote villages may avail themselves of the facilities offered by Government. The provision for advances should also be suitably increased to the extent necessary for meeting the demand consistently with the other commitments of Government.

Adequate allotments for sinking irrigation wells should be made and when loans are sanctioned for this purpose, the progress of the works should be scrutinised from time to time by responsible officers and the disbursements of the loan amounts made only against such progress.

In all these respects, what is required is not a change but an improvement in the present practice.

Co-operative
Societies.

41. The Co-operative institutions should play a more important part in the financing of agriculture. The Report of the Co-operative Department for 1933 shows that these institutions as yet serve only a small portion of the agricultural population. The total number of agricultural societies at the end of the year 1933-34 was 1,629, with a membership of about 72,000. Of these, 1,534 were credit societies including Land Mortgage societies, and their working capital was about Rs. 53 lakhs. As pointed out by the Agricultural Commission and various other authorities, the greatest hope for the salvation of the rural masses from their crushing burden of debt lies in the growth and spread of a healthy and well organized co-operative movement based upon the careful education and systematic training of the villagers themselves. Apart from the question of debt, co-operative credit provides the only satisfactory means of financing agriculture on sound lines. Strenuous efforts have, therefore, to be made to increase the number of co-operative societies and improve their working. These should, in addition to providing the credit necessary, educate the raiyat and promote in him the qualities of thrift and prudence. The need for a careful scrutiny of the economic purpose of the loan and of the repaying capacity of the borrower cannot be over-estimated.

The Money-
Lender.

42. The most important source of agricultural finance is the moneylender and in the present state, he is indispensable as he alone will be in a position to provide the bulk of the large capital required for current agricultural needs.

Loans are generally advanced either on personal security or on the security of immovable or moveable properties or on the security of the standing crops. Rates of interest on the loans vary according to the type of the moneylender, the nature of the loan, the nature of the security offered, and the status of the borrower. They vary from place to place and range mostly from 6 to 24 per cent, but in some cases they have been known to extend far beyond this limit up to 48 per cent. In the case of loans granted in kind repayable also in kind, the rates of interest may be as high as 100 per cent.

Of the different types of moneylenders, the village moneylender is said to be the least unfair in his dealings. Even when he stipulates for a high rate of interest, he is sometimes willing to forego a portion of it, in view of the changed circumstances of the borrower. But the generality of moneylenders, including Marwaris and Pathans, insist on the stipulated rates being paid. Onerous conditions are also often attached to the grant of loans providing for the levy of compound interest with rests at short intervals or for the payment of heavy penal rates on default. Having regard to the low profits from agriculture, the interest which the agriculturist can afford to pay out of his income would press very heavily on him, unless the rates are kept sufficiently low to admit of repayment either of principal or interest from the annual income with ease.

Usurious
Loans Regu-
lation.

43. The only enactments in Mysore intended to check usury are the Mysore Agriculturists' Relief Regulation and the Usurious Loans Regulation. Both of them provide for the courts scrutinising the transactions and disallowing interest which appears to them to be usurious. The following are the considerations that are generally taken into account in testing whether any transaction is or is not unfair:—

- (i) Risk taken by the creditor, including the presence or absence of security and the financial condition of the borrower.
- (ii) Various charges by the creditor in money or kind for expenses, enquiries, fines, etc.
- (iii) Compound interest, if any, charged.
- (iv) Other circumstances attending the loan.

It would appear that little use is being made of the Usurious Loans Regulation. Instances have been brought to our notice of the courts having awarded very heavy rates of

interest, notwithstanding the provisions of this Regulation, either because the attention of the courts was not invited to these provisions or the parties did not seek relief specifically under the Regulation. The main defects in the Usurious Loans Regulation are:—

- (i) That the debtor has to show that the rate of interest is excessive, and also to prove that the transaction was unfair before the court can take action;
- (ii) That even if the above position is proved, it is at the discretion of the court under Section 8 to exercise all or any of the powers mentioned therein; and
- (iii) That there is no definition of what constitutes excessive interest.

44. In some of the British Indian Provinces, legislative action has been taken to amend the Usurious Loans Act with a view to removing the above defects and prescribing the maximum rates of interest which the courts could allow. We have carefully examined this question and consider that it is desirable to amend our Regulation on similar lines. We recommend, therefore, that legislative provision may be made that in the case of agriculturists, simple interest above 10 per cent for secured debts and 15 per cent for unsecured debts should be deemed to be excessive, that compound interest at intervals of less than six months should be considered usurious, and that where compound interest is stipulated for, the reasonableness or otherwise of the rate should be tested with reference to the above limits of simple interest. Maximum Rates of Interest Recommended.

45. The question whether retrospective effect should be given to the rates of interest proposed to be prescribed has also been considered by us. Among those who favoured us with their opinions, some have suggested that in view of the depression during the past few years and the abnormal fall in the price of agricultural produce and the lowering of the income of the agriculturist, the proposed legislation respecting rates of interest should be given retrospective effect in respect of transactions entered into since the year 1929-30. The majority of us are, however, of opinion that it is not expedient to upset contractual relationships and that, therefore, the new rates should apply only to interest accruing in future. Relief in other cases could be obtained to the extent possible under the Agriculturists' Relief Regulation and by a more effective use of the Usurious Loans Regulation.

46. In this connection, our attention has been drawn to the fact that Mahomedan debtors cannot claim the benefit of the rule of Damdupat under which the amount decreed as principal and interest is limited to a sum equal to twice the amount of the loan. We consider that the benefit of this rule should be extended to Mahomedan debtors also. Damdupat.

47. It may be contended that any legislation to limit the rates of interest would affect the credit of the agriculturists and instead of improving their position render it worse. But so long as the rates prescribed are reasonable and yield a sufficient income for the investment and are substantially higher than the rates of public borrowing, we do not apprehend that there will be any disinclination on the part of the creditors to lend merely by reason of such legislation. As observed by the Agricultural Commission, moneylender's profits may diminish, his power may decline, but for many years to come, there will still remain a wide field for honest business in supplying the legitimate needs of agricultural operations. We are also alive to the fact that it is not unlikely that such legislation may be circumvented and the needy borrowers coerced to execute bonds for larger amounts than may be actually advanced. The risk of evasion is present in any ameliorative legislation of this kind, but does not by itself constitute a reason for not undertaking it. If even a proportion of debtors could be benefited thereby, it would be worth while.

48. The problem of controlling by legislation the transactions of money lending generally so as to protect borrowers against fraud has been gaining insistence everywhere in recent years. We understand that the question of undertaking legislation for this purpose in the State has been engaging the attention of Government. Money-Lenders' Bill.

49. The Agriculturists' Relief Regulation and its extension to the Maidan parts have been stated to have affected the credit of the agriculturist considerably. This question is engaging the attention of another Committee which has been constituted by Government, and we do not, therefore, propose to deal with it beyond stating that, with suitable safeguards incorporated in it, the Regulation is bound to prove to be of benefit to the agriculturist. Agriculturists' Relief Regulation.

VIII. LAND REVENUE AND OTHER CONCESSIONS.

50. The several measures of relief that have so far been sanctioned by Government in view of the agricultural depression are detailed in the appendix and may be broadly classed under the following heads:— Existing Concessions to Continue.

- (i) Remissions of revenue.
- (ii) Moderation of miscellaneous demands.
- (iii) Relaxation of coercive processes.

These concessions have afforded fairly tangible relief to the agriculturists and have lightened the burden in the matter of their paying the Government dues. Under the existing orders, the concessions are in force until the end of December 1934. We consider that these concessions should be continued so long as the present depression lasts.

Collection of Land Revenue and other Demands

51. We have obtained and appended to this report, a statement showing the land revenue and other demands recoverable by the Revenue Department in each taluk. The demands common to all the taluks are land revenue, cesses, (local, education, irrigation and railway cesses in some taluks) and village panchayet taxes. The other demands, such as the instalments on account of land improvement and takavi loans, tank restoration charges, tank maintenance charges and Record of Rights fees, vary largely in volume and incidence from taluk to taluk. In some taluks, the demand under these miscellaneous items and cesses bears a very large proportion to the total amount under all heads recoverable in the taluk. This is particularly the case in taluks like T.-Narsipur, Nagamangala, Mandya, Nanjangnd, Channarayapatna, Holenarsipur and Hosdurga where it is almost equal to 50 per cent of the entire demand or is in excess of it. Deputy Commissioners are vested with discretion in the matter of postponement of the collection of these charges. We consider that much greater latitude should be allowed and exercised in the recovery of these dues and accordingly recommended that the collection of the amounts falling due this year in respect of land improvement and takavi loans and tank restoration and tank maintenance charges may be temporarily suspended at the discretion of the local officers, in cases where they find that the demand is likely to be unduly burdensome, no interest being charged for one year on the suspended instalments. With a view to the speedy disposal of applications for relief, it is desirable that the Amildars should be empowered to order the suspension of repayment of land improvement and takavi loans, the suspension of the contribution amounts for restoration of tanks and tank maintenance charges being, however, vested in the Deputy Commissioners.

The Government have in their Order No. R. 2532-42—L. R. 221-33-36, dated 27th November 1934, sanctioned the proposal as regards the instalments of land improvement and takavi loans with the modification that recovery of interest need not be waived, as it is likely to tempt people who can afford to pay to withhold payment. As the concession will be granted only in deserving cases, the recovery of interest would operate as a hardship and the Committee would therefore request the Government to reconsider their order and waive interest on the suspended instalments.

Collection of Overdue Instalments of Land Revenue.

52. The land revenue is at present collected in four instalments commencing from February each year and on default of payment of any one instalment, the revenue authorities demand payment of the entire amount including the instalments which have not fallen due and normally refuse to receive part payment of the dues and stay further coercive proceedings. The Committee consider that it will bring some relief to the raiyats if they are given the option of paying only the overdue instalments and if on payment of these instalments further coercive steps are suspended.

Collection in Cotton Areas.

53. In areas where cotton is the chief commercial crop, it has been represented that as this crop is generally harvested in the month of March and the grower of the crop can pay his land revenue only after March or April the khistbandi should be adjusted accordingly. We do not consider it desirable to have different khists in different areas and that the object with which the proposal is made could be served by the issue of suitable instructions to the officers that the adoption of coercive steps for recovery of assessment may be deferred till March in those taluks where the bulk of land revenue is paid from the proceeds of the cotton crop.

Mutation Fees.

54. The scale of Record of Rights fees has been recently reduced to Re. 1-8-0 per hisse and the recovery of the demand in easy instalments has also been permitted. The rate of mutation fees has also been further reduced in cases involving no measurement and the question of waiving such fees altogether in cases of mutations due to inheritance is under consideration of Government. We consider that even the existing rates of mutation fees, viz., 8 annas for a survey number subject to a maximum of Rs. 5 for all the numbers in the village included in a transaction, is heavy, as in such cases no measurement is involved and no tangible work devolves on the Revenue Department. We therefore, recommend that these rates may be reduced to 4 annas per survey number subject to a maximum of Rs. 2

Record of Rights Fees.

55. Some of the members considered that no fees should be levied during the preliminary operations connected with the Record of Rights as this would add to the burden of payments to be made by the agriculturists, particularly at the present juncture. But a majority of us consider that in view of the extra cost involved in carrying on the operations, it would not be possible to abolish these fees altogether. We would, however, suggest that the scale of fees may be further reduced to Re. 1-4-0 and that the Record of Rights need not be extended during the period of depression to taluks where the recovery of the fees might entail a serious addition to the existing revenue burdens.

56. It was suggested by one of the members that the irrigation cess in all the taluks in which it has been made a separate levy should be remitted, if it cannot be abolished altogether. But in view of the orders of Government declaring their definite policy in the matter, the Committee, as a whole, are unable to accept the proposal.

Irrigation
Cess.

57. A suggestion has been made that the Railway Cess in the districts in which it is being levied should be abolished. We have read the recent order of Government, explaining the reasons why the cess cannot be abolished. We, however, consider that as a measure of relief during the period of distress, the levy might be waived in the districts in which its collection is not required either for payment of interest charges or for maintenance of the open lines.

Railway Cess.

58. A strong representation was made to us that the levy of Village Panchayet taxes in some of the villages was pressing heavily on the agriculturists and that, therefore, the Panchayets should be given the option to continue or suspend the collection of these taxes, unless such a course is precluded by reason of pre-existing commitments. The Panchayet scheme was brought into force over eight years ago and with the greatest difficulty most of the Panchayets have been brought into working order and the results of the scheme are now beginning to be realised. We feel that any action in the proposed direction now will result in weakening the resources of the Panchayets and lead to a set back in rural reconstruction work.

Village
Panchayet
Taxes.

But our objections relate only to the current demands which, in the great majority of cases, are quite moderate and which the poorer rate payer may discharge by contributing labour in lieu of paying cash. As regards arrears, however, we understand that they are very heavy and represent the cumulative neglect of the Village Panchayets and their predecessors for many years in the past. The prospect of recovering them is somewhat remote and their nominal retention on the Panchayet accounts is fraught with the possibility of confusion and fraud. The half-hearted attempts made to realise them are a source of harassment. We consider that all arrears which accrued prior to the year 1930-31, may be written off. In respect of arrears relating to subsequent years, the Panchayets may be allowed, having due regard to their commitments, to write off not more than 50 per cent with the sanction of the Deputy Commissioner, if the balance together with the whole of the current demand is paid within a stipulated time.

Any measure of this kind is attended with the risk of creating an impression that defaulters get concessions which are denied to the regular tax payer. But it is better to face this risk than to leave the rural rate payer in anxiety and the Panchayet affairs in confusion.

59. We have examined the rules relating to the grant of remissions of wet assessment under tanks and consider that under the present conditions, the rules need to be liberalised on the lines indicated below.

Wet Assess-
ment Remis-
sion Rules.

Under the existing rules, the remission of half the assessment is granted provided more than half the area of wet lands under the tank has remained uncultivated or, if cultivated, has yielded a crop of not more than four annas and provided further the tract has already been so impoverished or the previous years' harvests have been so poor as to render such a measure of relief necessary. The second condition was relaxed last year, in view of the depression and the Deputy Commissioners were instructed not to withhold the submission of recommendations for remission in cases which satisfied the other conditions of eligibility, merely on the ground that the previous harvests in the tract had been normal. As the economic depression still continues, we consider that this restrictive condition should be suspended during the current year also. As regards the other condition, viz., that more than half the area should have remained uncultivated, it may be observed that even in normal years the entire atchkat under certain tanks may not be cultivated and that this difficulty is increased during the current year, owing to insufficient rainfall in many parts of the State. We propose, therefore, that this condition might also be relaxed during the current year.

As regards the quantum of remission, one-half of the wet assessment is ordinarily remitted; but in cases where dry crops are raised with a yield of more than eight annas, the amount remitted is one-half of the difference between the wet and dry rates. It is considered that a more liberal treatment is due in respect of lands which are not cultivated at all or if cultivated, have yielded a crop of less than four annas, as in such cases, the return to the raiyat, if there be any, would not even cover the cost of seed and other expenses of cultivation which he has unavailingly incurred. The majority of the Committee, therefore, recommend that in these cases the highest dry rate or half the wet assessment, whichever is less, may be imposed and the balance remitted.

Some of us, however, feel that the grant of remission of half the wet assessment is itself a concession and that the circumstances of the present situation do not warrant a wholly different method being adopted for determining the amount of remission to be given in such cases.

Remission
under
Breachd
Tanks.

60. In connection with the question of remissions, we had an opportunity of examining the rules regarding the grant of remission of assessment on lands under breachd tanks contained in paragraph 234 of the Mysore Revenue Manual, Vol. I. Rule (1) of the aforesaid rules provides that when by breach or any other accident, a tank or other work of irrigation is not available for irrigation, in lieu of the wet assessment on lands situated under such tanks or other work, there shall be substituted during the first year of the breach or accident and succeeding years during which the tank or other work may remain unrestored and unavailable for irrigation, a temporary reduced assessment of half the full assessment which should be levied as *Bengar Kundayam*, the remaining half being shown in the accounts as a remission without reference to any dry crop which may be raised. The Committee feel that, in such cases also, there is no justification for recovering anything more than the dry assessment and recommend that if the occupant raises only dry crops and the prospect of the tank being repaired is remote, dry assessment in lieu of half the wet assessment may be levied.

Special Con-
cessions for
Total Failure.

61. In view of the possible failure of crops this year in certain parts of the State following a series of years of depression, the Committee would suggest that in tracts where the crops have completely failed and the conditions border on distress, the Government may consider the question of granting some concession by way of remission of a part of the assessment on dry lands.

Tank
Maintenance
Charges.

62. It has been brought to our notice that the amount recovered from raiyats for work rendered necessary on account of tank maintenance is sometimes excessive. Prior to 1927, the maximum amount that could be levied on this account was limited to one year's assessment on the lands included in the atchkat of the tank. As this limitation was considered harmful and set a premium on neglect, it was modified in 1927 so as to allow some latitude to officers to recover ordinarily the entire expenditure incurred for the purpose. We consider that if cumulative neglect has been allowed to occur, it is as much due to the neglect of the officers in not taking action in time as to the raiyats themselves. There might be some justification for recovering the entire expenditure in cases where the raiyats have wilfully and defiantly neglected this work. But barring such special cases, we recommend that until general conditions improve, the maximum limit of the raiyats' liability may be restricted as before, to one year's assessment on the atchkat lands.

IX. LAND REVENUE ASSESSMENT.

63. Representations have been made to Government in the Representative Assembly and elsewhere that the burden of land revenue has increased owing to the fall in prices, and that the payment of land revenue constitutes one of the causes of agricultural indebtedness. It has been accordingly suggested that during the period of depression the assessment should be reduced to the level of the rates in force before the Revision Settlement took place, or that in the alternative, a temporary remission should be given ranging, according to different proposals, from $6\frac{1}{2}$ to 50 per cent of the land revenue.

64. The Committee could not avoid divergence of opinion on this point. Three of our colleagues are for a general percentage cut of $12\frac{1}{2}$ per cent in the land revenue, while two others would have the cut as high as 25 per cent. The rest of us are unable to recommend any general percentage cut in the land revenue. As this is a very important subject, we propose to dwell at some length on the reasons for our divergent views. The grounds urged in support of the proposed cut in land revenue are set forth in the dissenting notes appended to this report. The considerations which led the majority of us to take a different view will now be referred to.

65. We may observe at the outset that the plea for any kind of general remission has lost much of its force, owing to the marked increase which has recently occurred in the prices of the more important agricultural products of the State such as ragi, paddy, jola and horsegram. Whatever may be the course of prices in the future, there appears to be no likelihood at the moment of their coming down to any appreciable extent as the result of the next harvest.

It is true that during the current year the rainfall has been untimely and inadequate. But the difficulties arising on this account will be essentially of a local character and will involve no question of a general remission. The nature of the concessions that may be appropriately given in case of failure of crops in particular tracts are laid down in considerable detail in the standing orders, and we have elsewhere indicated certain directions in which these concessions might be liberalised.

From the information regarding the net profits from agriculture that we have been able to gather, we find that even with low prices, the land revenue assessment is well within the conventional one-sixth gross produce or half the net produce. The land revenue is relatively not a very large item in the agriculturists' budget, and if any difficulty is being felt in

regard to its payment, this has to be traced to other causes and not to the pressure of the land tax itself. While it is true that for meeting the annual revenue demand, the agriculturist had to dispose of a larger quantity of produce than he had become accustomed to during the long period of high prices, it cannot be said that the pitch of assessment itself is too high.

66. The suggestion made in the Representative Assembly that the rates should be reduced, as a temporary measure, to the level of the original settlement rates does not appear to us to be feasible or even reasonable. It may be noted that in respect of 22 taluks or portions of taluks, Resettlement had been sanctioned or proposals for Resettlement had been submitted to Government before the outbreak of the Great War. Nine taluks were settled during the years 1914 to 1920, while the remaining 41 taluks were resettled between 1921-22 and 1929-30. So far as the taluks resettled before outbreak of the War are concerned, there seems to be no necessity to examine the effects of Resettlement, as it took place at a time when the prices were more or less the same as or lower than those at present. As regards the other taluks also, a perusal of the Resettlement reports shows clearly that the Settlement Officers have carefully avoided taking into consideration the abnormal prices that prevailed after the War.

In the Chikmagalur Taluk, while the increase in the prices ranged from 215 to 420 per cent, the dry rates were advanced by 29 to 33 per cent, and wet rates by 12 to 22 per cent, and the garden rate was reduced to 25 per cent. In the villages comprised in the late Honnavalli Taluk, the rise of prices ranged from 100 to 300, while the enhancement of the assessment was only 29 per cent in the dry rate and 6 and 7 per cent in the wet rate. In the Mulbagal Taluk, while the increase of price ranged from 100 to 300, the dry assessments were raised by 9 and 10 per cent and the wet and garden assessments were left as they were. In the taluks of Bangalore, Kankanhalli, Chamarajnagar and all the taluks of the Kolar District, only the dry rates were increased and the wet and garden rates were left undisturbed while in a few cases even the wet and garden rates were reduced from the original settlement level.

In this connection, we may note that a consideration of maximum rates alone is apt to be misleading. The maximum rates really relate to ideal classes of land not always actually met with. They are levied only when the water supply and the soil are both of the first order where either or both of these elements are inferior, the rate is proportionately low. As a rule, very few lands are assessed at the maximum and often there is no such land at all. For example, although in the Seringapatam Taluk, the maximum wet assessment is fixed at Rs. 15, the highest actual is only Rs. 13-2-0 and there is only one acre in all the tract which bears even this rate. Likewise, although the maximum dry rate in the Kankanhalli Taluk has been fixed at Rs. 2-6-0 for the first group, the highest dry rate actually levied is only Rs. 2 and the lowest rate in this class is seven annas.

The fact of the matter is that the policy and methods of resettlement in the State preclude any undue reliance being placed on the price factor alone. Enhanced agricultural resources of the raiyat, increase of acreage under cultivation, the past Revenue history of the tract are all taken into consideration equally with the rise in prices of the agricultural commodities in arriving at the revised rates to be introduced in an area. Any proposal therefore to revert to the original settlement rates would be to ignore the vast changes in local and general conditions which have taken place for half a century and which have led to the rates being reduced in some cases and increased in others during resettlement, the reduction having taken place in spite of the general rise in prices and the increase, without reference to the steepness of such rise during the post-war period.

67. The alternative proposal for relief urged by some of our colleagues is to reduce the assessments all round by a definite percentage. At the outset, this proposal fails to discriminate between cases which deserve relief and those which do not. We have examined the proposal with reference to the effect that it is likely to have on the finances of the State and the objective benefit that is likely to accrue to the agriculturist. Even a remission of 12½ per cent or 2 annas in the rupee would entail a loss of Rs. 15 lakhs to Government and should the quantum of remission be doubled, the loss to the State, would be Rs. 30 lakhs. As against this substantial loss of revenue to the State, there is no certainty that this measure would bring any tangible benefit to the agriculturists. As pointed out in an earlier part of the report, out of nearly a million khatedars, nearly 87 per cent pay kadayam of Rs. 25 or less and of these, 432,081 pay an assessment of Rs. 5 or less, and 442,493 an assessment of over Rs. 5 but less than Rs. 25. At the rate of 2 annas per rupee, these holders get relief to the extent of from a few annas to about Rs. 3, and in the bulk of these cases, the benefit is not likely to be more than half a rupee. The extent of relief to the majority of landholders will thus be very little. Further, it is common experience that the smaller raiyats have been paying their assessment without any difficulty.

We should, however, make it clear that our inability to support the proposal under consideration does not imply any lack of appreciation of the present difficulties of the

agriculturist. We consider that it is the burden of the several miscellaneous demands on the agriculturist introduced in an era of high prices that has led some of them to feel that even the land revenue is burdensome. It is in this view that we have recommended the lightening of the new burdens such as, arrears of Village Panchayet taxes, Record of Rights fees, tank maintenance charges. We have also recommended suspension of loan instalments. It is some of these items which operate as a hardship at the present moment. The majority of us feel convinced that it is not two annas in the rupee that is going to make any tangible difference to the burden of the raiyats.

X. GENERAL SUGGESTIONS AND SUMMARY.

68. We are mainly concerned with problems arising from the present economic depression. But at every point, we have been brought face to face with the fundamental defects of our agricultural economy which the depression has only served to emphasize. We may therefore cursorily refer to certain permanent measures of rural improvement which have been recommended from time to time by various authorities and to which our special attention was drawn in the course of our enquiry.

Improvement of Agriculture.

69. The Director of Agriculture has favoured us with a note which is appended to this report indicating the lines on which the efficiency of agriculture may be improved and the raiyat enabled to realise the maximum amount for his labour. Improvement in irrigation facilities, the growing of better yielding varieties, the use of more efficient implements and of better manure, conservancy and utilisation of farm yard manure on a larger scale instead of allowing it to be wasted as fuel are among the most important measures requiring attention. It is said that a great deal of improvement is also possible and is urgently called for in the business of farming itself, so as to reduce the cost of cultivation.

Silk Industry.

70. So far as the Silk Industry and the expansion of cultivation of mulberry in the State is concerned, we understand that the question has been considered in all its details by the Mysore Silk Association and that comprehensive proposals for the improvement of the industry have been submitted by that body to Government.

Irrigation Facilities.

71. Another important direction in which the efficiency of agriculture could be improved is the provision of irrigation facilities, which would place agriculture on a stable basis and make it less dependent on the vagaries of nature. The Government have been spending, particularly in recent years, considerable sums of money for the improvement of irrigation resources. Out of 2,655 major, and 20,779 minor tanks, 2,368 major tanks and 5,579 minor tanks have been restored and even excluding 8,133 tanks which have been abandoned, there is still a large number which has to be restored. Some of the tanks, it is stated, require only a sluice or a waste-weir to make them function at a comparatively small outlay. We consider that a systematic programme of restoration work should be drawn up and as many of the tanks as possible should be restored at a very early date.

Acreage Contributions.

72. In this connection we have examined the system of acreage contributions recoverable from the raiyats benefited by the restoration or improvement of works of irrigation. This system is peculiar to Mysore and although levies comparable in character, if not in amount, are to be found here and there, it is understood that it does not, as a rule, prevail in British India. Yet, it is not without theoretical justification, as it is but fair that the State should take from the owner of land a share of the unearned increment accruing as a result of new irrigation facilities provided by the State. The contribution is a capital levy but, with a view to easing the burden on the raiyat, it is being recovered in instalments, the maximum period allowed for completing payment being 10 years. In practice, we understand that the periods fixed are generally shorter.

As the rate of contribution now-a-days is rather high, it seems to us that the payment of one-tenth of this amount every year together with the water rate may, in some cases, be felt by the raiyats as a heavy recurring burden. We would, therefore, suggest that in cases where the contribution or a substantial part of it is not recovered in a lumpsum before an irrigation work is commenced (which is, of course, the best arrangement), its collection may be spread over a sufficiently long period, as in the case of land improvement loans, so that the raiyats can easily pay the same cut of their income from the benefited lands.

Irrigation Wells.

73. We consider it necessary to advert to the important part played by well irrigation in the economy of agriculture. Wells are sometimes found beneficial even in wet lands commanded by an uncertain source of supply. Their value in respect of dry lands is, of course, even greater. We recommend that steps should be taken to popularise the scheme of irrigation wells and to induce the agriculturists to sink such wells wherever they are likely to be successful. For this purpose, liberal grants should be provided in the Budget to admit

of suitable advances being made, recoveries being spread over sufficiently long periods. It is necessary to have a special agency to advise the raiyats about well sites and to supervise, and if necessary carry out, well works on the raiyats' behalf. It is understood that very appreciable progress was made some years ago when a special agency was in existence for this purpose.

Fragmentation of Holdings.

74. There has been considerable discussion about the effect of fragmentation of holdings on the economy of agriculture, and it is generally held that this would be a measure of great and immediate benefit. Experience of the scheme of consolidation elsewhere has shown that it has checked litigation to a considerable extent and made intensive cultivation possible. In the Punjab, the scheme of consolidation is being worked on the basis of co-operation while in the Central Provinces, an Act has been passed under which not less than half the permanent raiyats holding not less than two-thirds of the occupied area can combine in a scheme of consolidation and coerce the minority to accept the consolidation. The legislation in Baroda aims at not only consolidation but also prevention of further fragmentation. In the villages in which the scheme has been attempted in the Punjab, it is understood, that where there were only about 24 irrigation wells, it has now been possible to have as many as 2,000 wells. This subject has been engaging the attention of another Committee and we refrain from making any detailed recommendations. We, however, consider a suitable scheme is well worth a trial in Mysore also.

Marketing Facilities.

75. The existing system of marketing the important Malnad products and the suggestions for improvement of the same have been dealt with by the Malnad Depression Enquiry Committee of 1931. We do not, therefore, propose to refer at any length to the question of marketing these products. Defects.

76. Several factors contribute to the growers not realising a satisfactory price for their commodities. The agriculturists often obtain money and grains from moneylenders or traders on onerous conditions. A common stipulation is that the entire produce shall be sold to the trader or moneylender for a fixed price, or that a certain quantity of produce, generally far in excess of the quantity borrowed, would be delivered at the harvest in repayment of the loan. In such cases, the producers do not get the best price for their labour. The need of the agriculturists for money at the time of the harvest for repayment of their debts or for meeting the interest charges or other obligations necessitate their selling the produce at an unfavourable price.

Further, in the process of marketing, a long chain of middlemen, commission agents or dallals intercept the profits at every stage, with the result that the difference between the price realised by the growers and those at which the products ultimately reach the consumer is shared by the intermediaries. The methods of these middlemen are often unfair and involve various exactions for pretended service. Among the other handicaps of the cultivators may be mentioned the want of uniform weights and measures, the absence of properly regulated markets and the lack of knowledge as regards the areas where the commodities could be marketed to the best advantage.

77. The main object underlying all suggestions for the improvement of marketing is to ensure for the producer the utmost price for his labour, by minimising the number of intermediaries between him and the consumer, and to enable him to avoid selling his produce in a glutted market during what is known as the 'harvest slump.' Suggestions.

78. In our opinion, the Co-operative Sale Societies would be the best organisation both for advancing money to the cultivators on the security of produce, and for arranging for the sale of the produce collectively, as the bulk created is likely to attract a dealer of more than local importance who would offer the best price. The sale through Co-operative Societies should be specially advantageous in the case of commercial crops meant for export. Co-operative Sale Societies.

The reports of the Co-operative Department show that the sale societies have not been much of a success so far. But we do not think that this should deter us from persevering in this direction.

79. A survey of the existing marketing conditions should be made, particularly in regard to commercial crops like areca, cotton and coconut and the problem of finding a suitable and profitable market in and outside the State should be investigated and the growers of the crops should be offered the necessary guidance in the matter. We would suggest for this purpose the appointment of a marketing officer with experience of agricultural and trade conditions. Marketing Survey and Marketing Officer.

The question of establishing regulated markets in important places of trade should also receive early consideration.

Weights and Measures.

80. The Weights and Measures Regulation is in force in 16 centres. We consider that it is necessary that the operation of this Regulation should be extended to all important trade centres and all taluk headquarters so as to ensure that the use of false weights and measures and consequent loss to sellers are avoided.

Utilisation of the Spare Time of the Agriculturist for Increasing His Income from Subsidiary Occupations.

81. As observed by the Royal Commission on Agriculture, a prominent feature of Indian agriculture is the amount of spare time which it leaves to the cultivator and which can usefully be mobilised for some subsidiary occupation which will supplement the agriculturists' resources and help him to improve his economic position. The peasant proprietor cannot keep out of debt unless he is exceptionally industrious and frugal, or has a second string to his bow. In connection with the Economic Conference, attempts have been made in the past to popularise the scheme of the rural and cottage industries to increase the earning power of the rural folk. We consider that the time is now come to do some intensive work in this direction throughout the State. Various industries have been suggested as being suited to particular areas. This is understood to be engaging the attention of the Industries Department and the recently constituted Board of Industries and Commerce. The success that has attended the hand-spinning and hand-loom industry in several parts of the State warrants, in our opinion, a wider effort for popularising subsidiary rural industries in the State.

Summary of Recommendations.

82. The recommendations made in the foregoing paragraphs are summarised below:—

1. The recommendations of the Malnad Depression Enquiry Committee of 1931, may be published and treated as supplementing our own proposals. (Para 4)
2. (i) Takavi Loans should be liberally granted during the current year.
(ii) The rate of interest on these loans should be reduced to 4 per cent for a period of two years.
(iii) Applications for these loans should be disposed of promptly.
(iv) The budget provision for the purpose during the current year should be raised by one lakh of rupees. (Orders have been passed on these proposals in G. O. No. R. 33-43—L. R. 221-33, dated 16th—17th October 1934) (Para 6)
3. Relief in the matter of enforcement of decrees of Co-operative Societies against agriculturist debtors may be granted on the following lines:—
(i) In the case of decrees relating to very old loans, execution may be suspended if all interest up to date and a small portion of the principal is paid.
(ii) In the case of decrees in respect of fresh loans granted recently and in regard to suits filed during the current year, time till the next harvest may be granted. (These proposals have been approved by Government in their Order No. D. 2689-740—C. S. 18-34-2 dated 6th—10th October 1934) (Para 6)
4. (i) A scheme of debt conciliation on a voluntary basis so as to bring down the standing debt of the agriculturists within their repaying capacity is recommended. A majority would recommend provision being made for the introduction of the scheme on a compulsory basis in selected areas at the discretion of Government. (Paras 28 and 33)
(ii) The compounded debt should be recoverable as arrears of land revenue in the first instance, and failing this, through processes of Civil Courts.
(iii) Payment of settled debts may be undertaken by Co-operative Societies and Land Mortgage Banks. (Para 34)
(iv) The maximum limit up to which loans may be sanctioned by the Land Mortgage Banks may be raised from 50 per cent to 70 per cent of the market value of the security taken. (Para 34)
(v) Land Mortgage Societies should be rapidly extended so that every taluk may have one such society. (Para 35)
(vi) A simple, inexpensive and expeditious method of rural insolvency should be provided for in the case of debtors whose debts far exceed their assets. (Para 37)
5. (i) Wide publicity should be given to the rules for the grant of land improvement and takavi loans.

- (ii) Applications for loans should be disposed of promptly.
- (iii) The period of repayment should be sufficiently long to permit of payment in easy instalments
- (iv) Larger allotments should be made for the purpose. (Para 40)

6. Co-operative Institutions being the best form of organisation for financing agriculture, these institutions should be increased rapidly and their working improved. (Para 41)

7. Legislative provision should be made declaring that in regard to the agriculturists' debts, the following rates of interest should be considered excessive :—

- (i) Simple interest in excess of 10 per cent for secure debts and 15 per cent for unsecured debts.
- (ii) Compound interest at intervals of less than six months. Rates of compound interest should be tested with reference to the above limits of simple interest.

The above rates should apply to interest accruing in future. (Paras 44 and 45)

8 The benefit of the rule of Damdupat may be extended to Mahomedan debtors also. (Para 46)

9 (i) The concessions in the matter of payment of land revenue and other demands relaxation of coercive processes etc., which are in force till the end of December 1934, may be continued so long as the depression lasts. (Para 50)

10. In the matter of recovery of land improvement and takavi loans dues and tank restoration and tank maintenance charges, the instalments due may be temporarily suspended in cases where the demand is unduly burdensome, no interest being charged on the suspended instalments. For the expeditious disposal of applications in this behalf, Amildars may be empowered to order suspension of land improvement and takavi loan instalments. (Orders of Government have since been received *vide* G. O. No. R. 25 32-42—L. R. 2 1-33-36, dated 27th November 1934, sanctioning the above proposals with the modification that the recovery of interest need not be waived). Reconsideration of the Order as regards waiving of interest on suspended instalments is urged. (Para 51)

11. On Land Revenue falling into arrears, only the overdue instalments should be collected instead of the entire demand, and coercive proceedings should be stopped on payment of the same. (Para 52)

12. In cotton growing areas, the adoption of coercive steps for recovery of assessment should be postponed until March. (Para 53)

13. The scale of mutation fees in cases involving no measurement may be reduced to 4 annas per survey number, subject to a maximum of Rs. 2 in respect of all the numbers in a village included in a transaction. (Para 54)

14. The scale of Record of Rights fees may be reduced from Rs. 1-8-0 to Rs. 1-4-0 per hisse. (Para 55)

15. The Record of Rights operations need not be extended during the period of depression to taluks where the recovery of the fees would be a serious addition to the existing revenue burdens. (Para 56)

16. Levy of Railway Cess may be waived temporarily in the Districts in which its collection is not immediately required. (Para 57)

17. (i) Arrears of Village Panchayet Taxes relating to the period prior to 1930-31, may be written off.

(ii) As regards the arrears of subsequent years, a sum not exceeding 50 per cent may be remitted by the panchayets with the sanction of the Deputy Commissioner, if the balance as well as the current year's demand is paid within a stipulated time. (Para 58)

18. The rules regarding the grant of remission on wet lands under tanks may be liberalised as follows during the period of depression :—

(i) The restrictive conditions that more than half the area of the wet lands under the tank should have remained uncultivated, or if cultivated, should have yielded a crop of not more than four annas, and that the tract should be shown to have been impoverished on account of the poor harvests in preceding years may be relaxed.

(ii) In respect of lands which are not cultivated at all, or, if cultivated, have yielded a crop of less than four annas, the highest dry rate or half the wet assessment, whichever is less, should be imposed and the balance remitted.

(iii) Under breached tanks, only dry assessment should be imposed in lieu of half the wet assessment now recoverable under the rules. (Para 59 and 60)

19. In areas in which crops have completely failed this year, the question of granting partial remission of assessment on dry lands may be considered, if the conditions border on distress. (Para 61)

20. As regards the liability for tank maintenance, the maximum amount that may be levied from raiyats for work rendered necessary by their cumulative neglect may, except in special cases, be limited during the period of depression to one year's assessment of the land included in the atchkat of the tank (Para 62)

21. A systematic programme of tank restoration works should be drawn up and as many of the tanks as possible should be restored. (Para 71)

22. Tank contributions should be recovered in easy instalments. (Para 72)

23. The scheme of irrigation wells should be popularised, liberal grants being provided for advances for this purpose.

A special agency to advise the raiyats about well sites and to supervise and to carry out well works is recommended. (Para 73)

24. A suitable scheme of consolidation of holdings is worth a trial. (Para 74)

25. Co-operative sale societies should be organised on a larger scale for advancing money to cultivators and for arranging for the sale of the produce collectively. (Para 78)

26. A survey of the existing marketing conditions should be made especially in regard to commercial crops. The appointment of a marketing officer with experience of agricultural and trade conditions is recommended.

Regulated markets should be established in important places of trade. (Para 79)

27. The Weights and Measures Regulation should be introduced into all important trade centres and taluk headquarters. (Para 80)

28. Rural and cottage industries should be developed on a large scale throughout the State for enabling the agriculturist to increase his income by utilising his spare time. (Para 81)

83. Our deliberations have occupied much longer time than was anticipated, and we regret that we could not present this report before the end of November as required by our instructions. We had to obtain the opinions of officers and non-official gentlemen whom we decided to consult on the subjects under inquiry and although this procedure has occasioned some delay, it has enabled us to base our conclusions on information gathered from varied sources. We wish to express our obligations to the several gentlemen who have placed at our disposal the results of their observation and experience. We also wish to place on record our appreciation of the valuable help we have received from our Secretary, Mr. S. K. Venkataramana Aiyar, who had a really arduous task as the common Secretary of two committees, assisted only by a minimum of clerical staff.

(Sd.) N. MADHAVA RAU.

„ K. V. ANANTARAMAN.

„ A. K. YEGNANARAYANA IYER,

„ T. G. RAMA IYER.

„ M. G. MEHKRI.

„ T. V. A. ISVARAN.

„ K. R. SRINIVASIENGAR.

„ *B. K. GARUDACHAR.

„ *J. M. IMAM.

„ *K. CHENGALARAYA REDDY.

„ *B. S. PUTTASWAMY.

„ *HOSAKOPPA KRISHNA RAO.

Supplementary Notes and Minutes of Dissent.

(1)

The matter of reduction of land revenue has been to the fore from a pretty long time and various grounds have been urged justifying the necessity and equity of such a reduction. But it has assumed special importance ever since the catastrophic fall in the prices of agricultural produce set in, completely sapping the staying power of the raiyat and bringing him almost to the verge of ruin. It was hoped that the Committee, as a whole, would appreciate the justness and equity of the demand and make an unanimous recommendation in the matter. But it is a pity that that hope has not been fulfilled.

It is said that in no case in the State is the land revenue assessment in excess of the conventional one-sixth gross produce or half the net produce. It would be difficult to justify even that position if by half net produce is meant half net income, since certain statistics at the disposal of the Committee has clearly shown that in the case of many crops, the operations have resulted in a loss or only a meagre net income. Be that as it may, the fact is that our land revenue has not been determined on any definite basis but mostly on empirical considerations. The rate is arrived at "not upon the formal working out of results based on theory but rather upon the subjective impression of local knowledge and experience" and it is futile to rely upon one-sixth gross produce or half the net produce basis.

It is not necessary to discuss now the incidence of land revenue assessment prevailing in our State in the light of certain accepted canons of taxation but a reference must needs be made to one aspect of the same, since it is said that land revenue is not very large item in the raiyat's budget, his difficulties are due to other causes, and that the pitch of assessment is not high. When considering the equity or otherwise of the assessment, it seems but proper that the ability of the class of persons who pay it has to be determined after taking *all* aspects into consideration instead of an isolated factor only. High authority and actual experience supports the contention that our land revenue system is defective in respect of the most vital canon of taxation, *viz.*, canon of ability, and that the pitch of the assessment is high.

The economic position of the raiyat in Mysore has been a most miserable one along with his compeers in India from a very long time and his staying power has at no time been of a high order. His has always been an eternal struggle to make both ends meet and live a precarious existence. He has been managing to pay his land revenue only with the greatest difficulty, oftentimes by having recourse to borrowing. The land revenue, which was even originally high, was generally increased during the resettlements, and more than that various other demands like the local, irrigation, education and railway cesses have been tacked on to the main demand, with the result that the cumulative demand has been very burdensome to bear. Add to this the tank restoration contributions, Record of Rights fees and last but not least the Panchayet taxes all of which have practically broken the back of the poor patient peasant.

The interregnum after the Great War when the prices of produce rose considerably seemed to bring an era of comparative prosperity to him. He increased his standard of living. He borrowed both for provident and improvident purposes, oftentimes at high rates of interest with the fond hope that he would be in a position to pay off the debt. The cost of cultivation also rose and he could cope with all these additional demands as long as the prices of produce kept up at the increased level. This was the position when the sudden and fierce economic depression set in. The value of produce declined disastrously and the extent of the same and its effect on the agriculturist have been stated in the report. In any case, agriculture ceased to be remunerative, and the operations were carried on on traditional grounds and in the hope of better days to come. But the land revenue demand with its new accretions has remained the same. The luxuries of yesterday have become the necessities of to-day and the cost of cultivation has not shown any tangible decline. The demand under debt and its incident obligations has been considerably intensified. Thus whereas the demands on his purse have remained the same, if not actually increased, there has been a serious shrinkage in his revenue. To meet the dire situation, he exhausted his financial reserves, sold his gold, a good portion of his cattle and it would be no exaggeration to say that the majority of peasants in the rural parts to-day are nothing more than undeclared insolvents. And on the top of it all has come a year of scanty and erratic rainfall and the agricultural prospects are very gloomy. During the last few years, he had at any rate no fear of starvation, but even that horrid contingency stares in his face at the present moment. It is, under these circumstances, that a demand is made for relief by way of reduction in land revenue assessment and none can successfully contend that it is not a just demand.

It has, no doubt, been suggested that we have to go back to the level of the original settlement rates, but none in the Committee has sponsored the suggestion for various

reasons. And so it seems to be unnecessary to go into details. But that only means that particular mode of granting relief is not favoured and nothing more.

The only other alternative is to reduce the land revenue by a definite percentage. From the view point of the agriculturist, the situation demands a drastic reduction but unfortunately this must needs be moderated in view of the present financial position of the State. The maximum reduction that is therefore sought to be suggested is 25 per cent. It is, no doubt, not possible to justify on *a priori* considerations the same uniform reduction in all tracts, and it would be worth while, if it were easily possible to adopt different scales in different tracts, consideration being paid to the incidence of assessment and nature of crops grown in each tract. But if there are any difficulties in the practical working out of such a proposal as it was strongly represented to be, then the next best method is to adopt a uniform reduction throughout the State. The ancient argument that the majority of landholders are only small landholders and that the benefit that would accrue to them by the suggested percentage reduction would be very small and problematic as against a substantial loss of revenue to the State is again urged with full force. But this argument is not convincing. If it were so, then a percentage reduction at least in the case of large holders of land who as a class have been admittedly the hardest hit by the depression would have been recommended. But even that has not been done. It is also urged that the prices of produce have gone up since to a considerable extent. But it is admitted in the report itself, that the continuance of the price at the increased level is problematical and cannot be counted upon. Apart from that, the main fact to be borne in mind is that the rise in price—to the extent there has been—is the direct outcome of a failure of crop which leaves nothing to be sold. Nay, if it is necessary for the raiyat to purchase produce for his requirements owing to the considerable diminution of his crop, he has to buy at a higher price. Thus, the benefit of the rise in prices will not result to his advantage under the present circumstances. The bare fact is that the paramount needs of the raiyats are sought to be sacrificed at the altar of the State Finances. The need of the hour is a liberal attitude towards the raiyat in the matter of assessment and it will go not a little in instilling a ray of hope and courage in the all but dead heart of the raiyat, and after all, is anything novel being advocated which other Governments have not done? The Cochin, Travancore, Punjab, Madras and certain other provinces have taken action more or less in this direction. And why should not such examples be copied by our State as well? It would redound to the credit of the State and result in the contentment of the people.

K. CHENGALARAYA REDDY.

(2)

- (1) About the formation of a Conciliatory Board and making the scheme compulsory, I am agreeable if the payment of the settled amount is assured by Government or by a statutory body, issuing bonds, etc.
- (2) About the Agricultural Relief Act, I am of opinion something should be said, at least ways and means to be shown for the speedy recovery of the amount lent by the creditor.
- (3) About the temporary reduction of assessment, Government members are all one in not recommending any reduction and the report is drawn up elaborately to support their conviction. In the report, it is said the small land owners who are in majority in the State will not be benefited in any way, but the Government will lose very heavy amount. In the same report, it is said that the middle class land owner has most suffered. The middle class land owner is also the subject of His Highness' Government and he deserves every consideration in the hands of Government. So, the reduction of assessment is beneficial to this class of land owners; indirectly, it will benefit small land owners also. I would not at all have pressed the matter so much, but for the failure of the crop. The raiyat population will feel the pinch more in the supply of fodder to cattle than food grains. On this account, I am convinced that at least 12½ per cent remission should be given.
- (4) I may also bring to the notice of the Committee that the fate of superior landholders is worse than any other landholder. If the Government is kind enough to show the concession asked for, the position of superior landholder should also be considered. As it is, I may say it is very difficult for the Inamdar to collect the dues from his tenants to meet the Government obligations and make a living of himself. So, it is a serious matter to be considered.

B. K. GARUDACHAR,

(3)

While I agree in the main with the recommendations of the Committee, I feel, however, constrained to write this minute of dissent as my views in regard to two important points, *viz.*, the scheme of debt conciliation outlined in the report and the suggestion that the land revenue assessment cannot be reduced are somewhat at variance with those of the majority.

2. The compulsory system of conciliation advocated in the report has many drawbacks and disadvantages. It is an attempt at a synthesis of provisions of Agriculturists' Relief Regulation on a wider scale with the laws of arbitration and insolvency. The avowed object of this is to give relief to the raiyat who is sunk in the morass of indebtedness. The pervading poverty of the Indian raiyat population is a matter about which even the Simon Commission Report has given a harrowing description. While it is admitted on all hands that the remedy lies in a comprehensive scheme for the liquidation of the illiteracy of the masses and for the amelioration of their economic conditions by means of improving their methods of production and distribution and affording them adequate credit facilities by the extension of banking and co-operative institutions, it is necessary that some interim remedy must be found to give them immediate relief in the present period of acute economic depression.

3. The scheme of debt conciliation is one of the several methods tried in some parts of India with varying measures of success. The *sine qua non* of the successful working of the said scheme is the existence of some agency which would undertake to pay down in cash the settled debt forthwith or spread over some period of time. Such an agency might be either the Government or the Co-operative Credit Societies such as Land Mortgage Banks. I agree with the view of the majority when they say that it is neither practicable nor possible for the Government to shoulder this responsibility at present. The only other alternative therefore is the establishment of the Land Mortgage Banks in all parts of the State which would undertake to liquidate the debts. But this is a remote possibility. To introduce compulsion without creating means whereby the money lender would be recompensed for the sacrifice he makes, would be most inequitable besides being detrimental to the credit facilities that are at present available. With the shrinkage of credit that inevitably follows on the introduction of the compulsory scheme, the agriculturist would be deprived of the monetary help that he is getting from the local sowcar. The private money lender is an indispensable factor in the rural economy of Mysore and he is serving the credit needs of a vast rural population and it would be hardly possible to find a substitute for him in the immediate future. The average rate of interest charged by the local sowcar is comparatively very reasonable and moderate. As compared with his brethren in the Punjab and in other parts of India, it must be said to his credit that he is much better in his dealings with the raiyats than they, and he does not generally exploit the agriculturists by means of unconscionable transactions. The eventual disappearance of this class of money lender which would result from the introduction of the compulsory scheme of conciliation proposed in the report would have disastrous consequences on the rural population.

4. From the experience of the actual working of the Land Mortgage Bank, we have seen that it is not possible to secure easy, quick and satisfactory credit facilities to the agriculturists. The fault is rather inherent in the institution itself than in any personnel working at it. On the other hand, a private money lender who is in constant contact with the agriculturist takes risks and advances money even though there is no adequate security and thus provides facilities to the agriculturist even in cases where the Land Mortgage Banks would hesitate to do. So, in short, unless the Government undertakes the responsibility for the amortisation of the conciliated debt either as in Bhavanagar or as in Cochin which I need hardly say is not practical politics in Mysore and provides adequate credit facilities for long-term loans on the security of real property hereafter, the scheme of compulsory conciliation cannot yield any fruitful results. Besides, such a measure would savour of a piece of socialistic legislation and creates undesirable apprehension in the minds of the money lenders. I hold, therefore, that if the scheme were to be worked on a voluntary basis it would prove successful. The money lender would be amenable to scale down the debt when he would be sure that the Land Mortgage Banks would undertake the responsibility for their liquidation. Moreover, I do not see the justice of calling upon a creditor to scale down the debt which is below 60 per cent of the debtor's assets when the latter could cleanly retain a margin of 40 per cent of his assets even after the clearance of his debt. And when the debt remains above 60 per cent of the assets even after conciliation, the Land Mortgage Bank does not advance any money for the liquidation of such debts. So much so, the operations of the Land Mortgage Banks in giving amelioration to the hard hit debtor is very narrow. I know from personal knowledge that there are many money lenders who are prepared to forego the interest on the debts and even a part of their principal if ready money is paid immediately. Instead of this, to force them to consent to the reduction of their debts and drive them to the tedious course of petitioning the Revenue Authorities for the realisation of instalments in the first instance and in the event of their attempts proving ineffective there then to direct

them to Civil Courts is a poor consolation indeed for the large sacrifices they are called upon to make. Persons who have experience of the psychology of the rural population know full well that the success of private arbitrations that take place in the villages to settle monetary claims popularly known as *panchayeties* is largely due to their working on a voluntary basis and the want of legal sanction attached to the decision arrived thereat. The moment these *panchayeties* are armed with powers to implement their decisions, there would be ample scope for corruption. In conclusion, I am of opinion that the only hope of success of the scheme for conciliation lies in its voluntary basis.

The next point about which I hold a different opinion from the majority is their suggestion that it is not necessary or expedient to recommend any percentage reduction of land revenue assessment since the benefit it confers on the bulk of the agriculturist is problematical while on the other hand the loss it entails to the Government is considerable. We have it on good authority that the incidence of land revenue in India is extremely heavy compared with other taxes and the Land Revenue System is not in consonance with that prevailing in other civilised countries and that is based on many averages like average rainfall, average crop, average prices, etc., with no reference to actualities besides being inflexible. Manifestly, therefore, any percentage reduction of land revenue assessment, whether the result is tangible or otherwise, would have the effect of removing an obvious inequity. However small the relief might be, it is much needed to the already impoverished raiyat and most welcome. At present, the rate of assessment leaves him a very narrow margin for subsistence and sometimes nothing at all. The large landholders also will be relieved to a very great extent and there is no reason why they should be treated on a different basis in regard to this question of reduction of assessment when the majority has recognised in another connection that the present depression has hit them hard. I submit that both on grounds of principle and necessity a reduction of at least 12½ per cent in assessment should immediately be given effect to. If the Government are not prepared to reduce the land revenue assessment as a permanent measure, they might give a 12½ per cent remission, tenable during the period of depression wherever it is necessary; and this concession should be open to such of those who would take advantage of it before a prescribed period of time. This would not only benefit the raiyats but also the Government inasmuch as it facilitates revenue collection.

B. S. PUTTASWAMY.

(4)

AGRICULTURAL INDEBTEDNESS.

I am against the introduction of the Scheme of Debt Conciliation on a compulsory basis as it will not bring any immediate and substantial relief to the raiyat. It brings down the credit of the agriculturist and spoils the harmony existing between the money lender and the raiyat. It is a system which is impracticable and unworkable in a big State like ours.

The question as to what relief the raiyat should get as against the money lender is more complicated as it is necessary to guard the interest of the money lender also. I admit that the raiyats are heavily indebted and their indebtedness is rendered all the more acute by the fall in prices of both land and commodities. It is also true that they are not in a position to repay the debt in cash or kind unless the debtor alienates his land. It is equally true on the other hand that the local money lender being misguided by the temporary boom in prices and depending on the high value of land, invested everything he had on local banking, so much so that in many cases the borrower is in a better position than the money lender, who in his turn is often indebted to a bigger money lender.

It must be said to the credit of the local money lender that he is very moderate in his rate of interest which, on an average, never exceeds 9 to 12 per cent. The rate of interest prevailing in some places is from 3 to 6 per cent. I think the rate of interest charged in our State is much less than what it is in other countries. The local money lender is also considerate according to the seasonal conditions reducing the rate of interest and giving the debtor ample time for the repayment of interest or capital. He never rushes to the court and if he does, it is with the greatest reluctance when he finds that there is no other alternative. The same money lender must come to the rescue of the raiyat when he is in distress. He provides him with money when his land is in danger of being forfeited for arrears of revenue and provides him with grains when faced by starvation.

The exorbitant money lender in the State is he, who comes from other countries with a grim determination to make money. It is he that charges a high rate of interest and never sparing in his dealings. It is against such money dealers that protection is needed most. It is necessary to introduce legislation controlling such money lenders.

I agree entirely that the raiyat requires relief as against the money lender and at the same time I stress the need for maintaining the confidence existing between the money-lender and the raiyat. The raiyat should not lose his credit with the lender and the money-lender should not be allowed to fleece the debtor. It is the law of human nature that there must be debtors and creditors in every country. The Government, however much it may try, cannot make a country entirely debt-free nor is it possible for it to become the banker for the whole country if the local money lenders refuse to advance loans to the raiyats; nor is it possible that a situation will arise when the raiyat can get on without incurring further debts. Borrowing and lending is quite essential and an absolute necessity. The money-lenders are not very particular when they get back their money provided they feel their investment is safe. The loan at this time is opportune and it is the most opportune moment because the raiyat was never more in need of borrowing.

So, while giving relief, we must take care that the harmonious relationship is not affected. We have to safeguard the interest of the money lender in the interest of the raiyat himself. We may ask the creditor to wait till the present conditions materially improve. Let us ask him to make as little profit as it is consistent with the present times. At the same time, it is our duty to make him feel that his investment is safe irrespective of when he gets it back or what return he gets on it. Let him not feel that he is exposed to the danger of losing his money. The Agricultural Relief Act has done more mischief than good. The lender has tightened his slender purse fearing that he would never get back his money and the needy borrower not being able to raise loan at the time of his need recklessly alienates his lands. So, I do not feel that there is any need for introducing Debt Conciliation Scheme as its introduction is attended with many difficulties. It is a measure which is impracticable and widens the already existing gulf caused by the introduction of the Agricultural Relief Act between the creditor and the raiyat. It is better that such conciliation is left to the parties themselves instead of putting pressure on them. This scheme, if introduced, cannot be put into operation immediately as there is no agency which is in a position to pay all the conciliated debts and the amount to be paid after conciliation will be enormous. It is believed that the total indebtedness of the State comes to nearly thirty crores. Granting that the entire debt is conciliated, for twenty crores, who will pay this amount? It is said the Government must issue bonds for the amount conciliated. But I am not sure if we are wise in asking the Government to commit itself to such a policy in the interest of the State. We cannot take Bhavanagar as an example, where it was a question of a few lakhs. In this State, it is a question of crores.

It is also suggested that the Land Mortgage Banks will come to the rescue of the debtors by taking up and paying the conciliated debts. In the first place, the operation of the Land Mortgage Bank must extend throughout the whole State and to achieve this it will take ages. What is wanted is immediate relief to the raiyats throughout the whole State at this time of depression. So, we cannot ask the debtors to wait indefinitely till the whole State comes under the operation of the Land Mortgage Bank. It is not all the debts that these banks are prepared to pay. It is only such debts as are covered by sufficient security and when the assets exceed the liability by at least 40 per cent. As a matter of fact, there is no need to conciliate such debts at all as the debtor is quite capable of discharging his debts in such cases.

As regards bad debts, where the assets and liabilities are equal, the Land Mortgage Banks will not be of any use as they do not come to the rescue of such debtor. In such cases, it is suggested that the debtors should surrender all their assets after which they will be adjudged insolvents. I am not sure by adopting this method we are giving any relief at all to such debtors who are most in need of relief. We are driving them to ruin by depriving him of everything he has, which he might have retained if the Conciliation Board had not interfered. The value of his assets might be low in view of the present depression and the value of land might have gone up if he is given some time. The creditors also would be quite willing to wait till better times come or if it is left to the parties themselves, the creditor would have been more considerate by sparing a part of the debtor's land for his maintenance. The interference of the Debt Conciliation Board will render him a pauper with nothing to depend upon.

In conclusion, I submit that this system of compulsory conciliation is impracticable and does not bring any immediate relief to the raiyat. If any such scheme is to be tried, it must be on a voluntary basis.

REDUCTION OF THE RATE OF INTEREST.

If we want to give immediate and substantial relief to the raiyat, it is by reducing the rate of interest substantially and make it apply to the existing debts, and if possible by giving retrospective effect to it. It is proposed to limit the rate of interest to 10 per cent in case of secured loans and 15 per cent in case of unsecured loans. By adopting this rate,

we are practically retaining the existing rate of interest. It is said that reducing the rate of interest will affect the working of the Banks and the Co-operative Societies. In the first place, I do not see any reason why these banks also should not reduce the rate of interest, especially when the money market is so cheap and when they can get any amount of money with Government guarantee at 3 per cent. Another argument advanced is that indiscriminate lowering of interest may give rise to fraud. No fraud can be committed regarding the existing and prior debts and secondly many will be satisfied to get a small return on their investment provided they get good security.

Let me give a concrete example of the immense relief given to the debtor by the reduction of interest on existing loans. If a debtor has borrowed one thousand rupees at 12 per cent, he will have to pay annually Rs. 120 to the creditor. If you reduce the rate of interest to 6 per cent or even 8 per cent, we will be saving him annually 40 to 60 rupees. This is certainly a much greater relief than a possible reduction of land revenue by 25 per cent. So, I contend that the agriculturist can get substantial relief by the reduction of the rate of interest substantially and make it apply to the existing debts. I propose the following sliding scale:—

<i>Amount of debt</i>	<i>Secured debt</i>	<i>Unsecured debt</i>
Rs.	Per cent	Per cent
500	9	10
500 to 1,000	7	8
1,000 to 2,500	6	7
Above 2,500	5	5

If the rate of interest according to this scale is adopted, I think it will immensely help the raiyats.

REMISSION OF LAND REVENUE.

This is always a vexed question and the question of the remission is always embarrassing both to the Government and the raiyat. On one side, we cannot be blind to the fact that any percentage reduction of land revenue, however small it may be, will involve a loss of good portion of Government revenue and cripple its resources. It must be also admitted that a small reduction of annas two in a rupee does not materially help the small land owner as he has still to pay annas fourteen and his difficulty will not be mitigated much.

On the other side, it is equally true that the raiyats are very hard hit. His condition is pitiable. He is hardly able to realize the cost of cultivation though he toils for the whole year incessantly. The prices of commodities have gone down by more than 50 per cent and added to this is the uncertain seasonal conditions due to scanty rainfall. The raiyat looks forward to the Government to come to his help at this juncture. The raiyat expects that he must be taxed in proportion to the income he derives from his land. From the raiyat's point of view, there is justification for reduction by 50 per cent. Unfortunately, this is impossible under the present financial conditions when the Government itself cannot make both ends meet. These are days of depression both to Government and to the raiyat.

What is wanted at this time is mutual help and co-operation. The raiyat though he is very much hard hit should not make a high demand by asking indiscriminately. The Government should not express mere sympathy. It must be realized that a concession, however small it may be, will be quite welcome by the raiyat. This year especially, owing to precarious rainfall, the raiyat has been completely paralyzed. So, I recommend the following reliefs to be given:—

- (i) To give adequate remission of land revenue in areas where there is total failure of rainfall or the rainfall is so little that it raises a reasonable presumption that the crops are very poor.
- (ii) To remit the land revenue this year by 12½ per cent throughout in view of the general depression prevailing.

Though the small land owner might not be benefited much, the middle class of people who suffer most will get a substantial relief.

J. M. IMAM.

(5)

I have signed the report subject to the following note of dissent :—

LAND REVENUE ASSESSMENT.

It is not without the greatest reluctance, that I dissent from the views expressed in the report on the question of land revenue assessment. All the arguments against the reduction of land revenue assessment pressed by some members leave me, however, unconvinced. Even some of the members who urged and still urge the need for a reduction would not unite in making a demand for a substantial reduction on a uniform basis. Under the circumstances, a split is unavoidable. I hope, it will not, on that account, be suspected that I do not participate in the admiration which the ability and the honesty of purpose of the Committee so justly deserve. That admiration should not, however, prevent me from taking a different view from that of others on a question which is of vital moment to the poor taxpayers at present.

The outstanding question for consideration in view of the present condition of agriculturists is the heavy burden of land tax. The level of taxation in Mysore, as elsewhere in India, is admittedly very high, as the system is not based on the capacity of the people that pay it. Nowhere is the burden of the land tax in relation to the produce or the income of the raiyat so heavy, as in Mysore, poor as it admittedly is. Besides, the percentage of indirect taxes on necessaries is far higher than in many other countries. A comparison of the average income *per capita* and the taxes in richer countries like England and America with those in Mysore would readily show that the taxation in Mysore is far beyond the capacity of its poverty-stricken raiyats. To suggest that the level of assessment in Mysore is not too high is to overlook the fact that the burden which has been placed on the raiyat is far greater than he could carry, impoverished as he has been, by the combination of a number of adverse circumstances. It is argued that the number of small land owners being very large according to statistics available, the concession asked for would be inappreciable from the point of view of each raiyat, while Government would be deprived in the aggregate of an appreciable amount of revenue. It is not a question to be treated in that manner. The gains or losses of individual owners or of the Government ought not to be considered. The land in India, in the confirmed opinion of all economists, has to bear too much burden out of proportion to its capacity for production. Mysore is no exception to this rule. What with the high rate of assessment and the inevitability of increase at every revision, and the consequent increase in rents, the actual cultivator has been hit so hard, that all spirit of enterprise has gone out of him, and it is in sheer dread of dire want that agricultural operations are being carried on. Added to this, the low price of agricultural produce, as a result of depression, without any corresponding reduction in assessment has hit the raiyat very hard and borne him down with crushing pressure on all sides. Apart from the material loss resulting from such a condition, the loss on the moral side is still greater and farther reaching. It has produced apathy and engendered a feeling of helplessness. At such a crisis as the present one in the life of the people, any little help rendered to them by an agency which rules over them would engender hope and courage by the assurance of the ready sympathy and assistance which it gives. It is not, therefore, the smallness of the material gain to the individual or the magnitude of the loss to the Government, that should weigh. What is required is co-operation and understanding between the rulers and the ruled in tiding over the difficulties which at present the raiyat feels he is left to suffer alone. Immediate and ungrudging concessions would create fresh hope and trust in the existence of a helping agency near by and inspire confidence and courage in the cultivator. However little it may be, Government should do what it can and should not take into consideration the smallness of the benefit to the people. The raiyats in the villages know what even an anna is worth in these days of diminishing incomes, poor out-turns, dwindling business, growing unemployment and disastrous breakdown of purchasing power. Further, the harshness of the system of recovery of land revenue renders the concession, however small, of tangible value, because the revenue dues have to be paid on pain of forfeiture of all interest in land. It would, therefore, be essential that without any regard to the money value of the benefit, Government should extend its hand of fellowship to the people, and prove that they sympathise with them, feel for them and are equally ready to suffer difficulties with them. We are not asking too much, if we request the Government to extend their full sympathy to the people and help them to tide over the present difficulties by instilling in them hope and courage.

Further, the pressure on land in India is not of recent origin. It is a matter of growth distributed over a long, long period of years, due to causes which are now a matter of history.

It is enough to say that land is the one source of revenue on which all successive governments, from the dawn of history up-to-date, have depended to meet the cost of administration. The pressure was not felt over much in the early days, as life was simple, luxuries were absent and the cost of living was considerably low. As civilization advanced and life became more complex, articles of luxury came to be dumped into the country and, by degrees, all such luxuries became in the course of time indispensable necessities. People increased their expenditure and the Government followed suit. As long, however, as the prices of agricultural produce were high, and the value of land was rising and land owners commanded credit, no actual difficulty was experienced, though the seeds of the present disastrous situation were being sown. Neither the people nor the Government thought of the future, and every one believed that the above conditions would continue indefinitely. But that was impossible, and the crisis came. There are no signs of improvement in the near future. To hope for better times and remain apathetic or idle without making serious efforts to apply proper remedies, would be suicidal. Even rich countries in the west have visualised the dire consequences of apathy and indifference, and are straining every nerve to infuse hope and courage in the people. Almost every one of them has taken special measures to protect its producers in various ways during this period of crisis. For example, the State Governments in the Australian Federation established Farm Relief Boards in 1931 soon after the depression and the extraordinary functions assigned to these Boards to afford relief to the farmers show the extent to which these Governments have gone in helping the agriculturists to carry on their operations in these difficult times. These Boards are empowered to take charge of the farmers' income and distribute it in accordance with a scheme of preferences. One noteworthy feature in this scheme of preferences is that the living allowances of the agriculturists have the first claim on the available income and the rates and taxes due to the Crown take the next place. The reverse is the case in this country even during this period of crisis. The taxes due to Government take precedence over every other claim and no consideration is paid to the needs of the agriculturist, whether he has margin or no margin for his sustenance. Mysore, a comparatively much poorer country when she knows that agriculture is passing through a period of depression unparalleled in history and when she also remembers that 80 per cent of her population directly depend on it for their sustenance cannot remain idle, but should fully realise the immensity of the problem of relieving the acute distress now prevailing throughout her territory.

As regards the Land Revenue policy of Mysore, it is sought to make it appear that it is almost perfect. Whatever might have been the case with the system in the past and however perfect it might have been under the conditions of an earlier period, it is time, the Government realised, that it has become far too antiquated now to be satisfactory or equitable.

The recent rise in the prices of some commodities affords no valid ground for refusing the reduction of land revenue. That rise is only a precursor of a further set-back in the agricultural life of the State, due as it is to the failure of crops for want of rains and the exhaustion of stock from previous harvests. The cumulative effect of the continued slump in the past with all its evil consequences on the financial resources and other contractual obligations of the land owning and cultivating classes has also to be borne in mind.

The other argument regarding the land revenue assessment not being in excess of the conventional one-sixth gross produce is not convincing. That convention has no standing now. The principles governing the land revenue policy of the modern Governments have no comparison to those of the past, as could be seen from the fact that the spirit of liberal outlook that was being shown in the matter of remissions and other concessions to the raiyats in times of need, is thoroughly absent at present. Nor must it be forgotten that the conditions of life then were not so complicated as they are at present, which accounted for the ability of the raiyats to meet the revenue demand. That factor cannot, therefore, be taken as an argument to defend the position of the Government under the present system of their land revenue administration.

Other alternatives which are suggested, such as the reduction on a sliding scale and the liberalisation of remission rules, do not have regard to the collective benefit that would secure something for all, irrespective of the tract or tracts requiring different treatment. Considered from the point of view that the depression and its effect are widespread, the relief in this direction should be universal and sufficiently substantial to be of appreciable benefit to the raiyats who are hard hit by the depression. Further, these alternatives can be of little or no practical benefit, as these would entail palpable difficulties in judging the conditions existing. It is a process of a laborious routine and is bound to prove thoroughly unsuited to the present day situation of the raiyats requiring relief.

It may be that judged from official canons the conditions of State's Finances would not admit of such reduction, but it is by no means a sound argument to adduce especially at this time of great hardship to the raiyats. The unprecedentedly high fall in prices in recent years

has depleted the private purse even more than the public coffers. The reduction no doubt involves an appreciable loss to the Government but to do nothing in the matter at this juncture would involve greater loss. What the Government ought to do is to adjust its expenditure to the decrease in revenue. If Government fails to recognise this fact, the consequences will not be happy for either the Government or the public.

It cannot be that those who opposed the demand for general reduction, were so oblivious of the strongly felt and widespread public opinion in the matter as not to be aware that the ultimate rejection of that demand by the Government would most certainly not make for a happy and contented peasantry in the State. Nor can I believe that the Government, whatever its previous views on this point, would fail to respond to an unanimous recommendation of the Committee for the reduction of the land revenue. It is regrettable that this happy consummation was not possible. All the other reliefs proposed by the majority, for adoption, however much they might be good in themselves, will not be productive of much good, unless this major item of popular grievance, namely, the heavy burden of the land revenue is redressed by a reduction of at least 25 per cent as long as depression lasts. It should, however, be understood, that it is not my intention to belittle the value of those reliefs. My sole aim in dealing at such length with the question of reduction is to respectfully invite the earnest and serious attention of the Government to the real situation in rural areas of the State, with a view to securing a reduction of the land revenue in response to the widespread public opinion in this behalf.

This question of reduction is to the people one of vital importance at this time of chronic depression, and it is only by granting their request for reduction that the Government will have identified themselves with the best interests of the people.

I make a special plea for the reduction of the Bagayat assessment in the Malnad, so as to render Bagayat cultivation there sufficiently lucrative. The general low economic condition of Malnad raiyats, which has been aggravated by the long continuance of the low level of prices of areca and other garden produce makes it imperative that the Government should give the Malnad raiyats, repeated request for a substantial reduction in the rate of assessment on Bagayat lands, their most sympathetic consideration.

REVENUE AND OTHER CONCESSIONS.

IRRIGATION CESS.

Regarding the above, I do not see any justification for the continuance of the cess in the taluks where the same came to be levied separately in 1903, contrary to the express orders of the Government in 1875 abolishing the separate levy, as the cess was held to have been merged in the assessment. In the year 1917 or so, the Government directed that no separate levy should be made in respect of taluks to be resettled thereafter but it is unfortunate, the separate levy is still being continued in the taluks in which the resettlement had already taken place. It would be found, from a reference to the proceedings of the Representative Assembly of 1924 and 1925, that the Government admitted the injustice of the separate levy of the cess in the taluks settled between 1875 and 1903 and which were resettled after 1903 and conceded that the cess was a double levy as the increase in the assessment was calculated on the basis of the old assessment, which included both the cess and assessment. The Government Order subsequently passed ignored the just claims of the people suffering from this admittedly double levy. I do not see why, in the face of such incontrovertible and strong arguments in favour of abolition of the Cess, the Committee should hesitate to move the Government for at least a temporary remission, if not the abolition, of the cess, as a measure of relief during this period of depression. I would earnestly urge the abolition of the cess, as that would go a great way to relieve the poor tax-payers at this juncture.

AGRICULTURAL INDEBTEDNESS.

I would insist on compulsory conciliation for redemption of debt with no discrimination, without which no effective redemption of debt is possible. I would also insist that in order to make the whole scheme of debt redemption a success, the Government should provide for some effective means of paying off the compounded debt. I am strongly of opinion that no amount of indirect method of assistance by Government would meet the situation. Nor are the Land Mortgage Banks and the Co-operative Societies the only agencies that can effectively take up this debt-clearance work. So heavy is the debt and so urgent is the question of its redemption, that, I think, these institutions may not be able to tackle it single-handed and direct assistance by the State, as in Bhavanagar, is essential in order to mitigate this growing evil. The interests of the State are so materially involved in the matter of the well-being of the most numerous and the most helpless classes of the tax-paying population, that the solution

of the growing evil of their debt cannot be delayed any longer. The State help is needed for the very cogent reason that the initiative of the State and its direct action is necessary to inspire confidence. No other organisation in the country has such a diversified, intelligent and widely diffused agency at its disposal.

The Government need not expend its funds. The funds would be forthcoming, if it only undertakes to organise the agency and sets it to work. All that the Government will have to do is to organise a Loan-Lending Bureau, empower them to receive deposits at fixed rates and lend them at slightly higher rates of interest to the borrowers, on the security of lands, the excess rate providing for a gradual amortization of the debt in a definite period, as also working expenses.

Government should also encourage Land Mortgage Banks to spread their operations throughout the State without any delay (1) by large subsidies, at far cheaper rates of interest, in addition to guaranteeing of interest, as now, on debentures raised by them, and (2) by exempting their business from all stamp duties and other charges.

I am not in favour of fixing any limit as to the aggregate of the debts in the case of which conciliation may be effected. If, however, it is not possible to do away with restriction of this kind, the maximum limit ought to be raised to at least Rs 20,000 so as to cover a large majority of debtors whose debts exceed the proposed maximum limit and who are, by reason of their indebtedness in a more helpless position than the debtors proposed to be brought within the scope of the proposed provisions as to conciliation. In this way, the relief should be extended to a wider circle so as to allow a very large number of middle class landed proprietors to recover their credit and solvency. Besides, the prescribing of the limit is bound to give rise to unsavoury disputes and lead to a good deal of perjury in the initial stages of court proceedings to the prejudice of even those whose cases may fall on the border of the prescribed limit.

HOSAKOPPA KRISHNA RAO.

APPENDIX I.

Note of the Director of Agriculture in Mysore.

With reference to your B. O. C. 308—34-35, dated 7th August 1934, I have the honour to furnish below a statement showing the approximate cost of cultivation of certain important crops grown in the State, the average yield per acre and the value of the produce calculated at current rates. The cost of cultivation figures are averaged from a very large number furnished by the District Staff of the Department and may be taken to be fairly applicable to the generality of raiyats. The figures given for yields are, however, quite the reverse; they are subject to very large variations due to the seasons, soils, manuring, irrigation facilities, incidence of pests and diseases and the quality of the cultivation itself. Many of these factors often bring about either a doubling or halving of the yields given in the table, according as they act on the favourable or unfavourable side. In fact, for the improvement of the agriculture of the State one has to look for strenuous endeavours in the direction of strengthening the favourable factors and the removal or mitigation of the unfavourable ones. Improvement in the irrigation facilities, the growing of better varieties, the use of better implements, more adequate manuring, remedial measures for diseases, in fact all the activities now coming within the work of the Agricultural Department have to be developed, expanded and made to cover the State as widely as possible. In the course moreover, of certain departmental studies into the cost of cultivation incurred by our raiyats, it has also been strikingly brought out, that a great deal of improvement is possible and urgently called for in the business of farming itself, which will bring about considerable reduction in the cost. It will be necessary to interest raiyats in this new line of activities which I consider an important matter. If by proper measures we can see that crop yields are assured and kept up at a fairly high level, I venture to think that the agriculturist's troubles will right themselves automatically and our endeavours should therefore be mainly directed towards this end. The figures relating to yields given in the table being thus subject to considerable variation, the figures of the returns per acre are likewise not such as will be generally applicable; they are in addition influenced by the fluctuation to which prices are always subject; nevertheless, it cannot be doubted that in the case of the grain crops, ragi and jola and in the case of the commercial crop groundnut, all three of which are very important crops, the value of the produce at the present level of prices hardly covers the cost of cultivation. In the case of the other crops also, a study of the fluctuation in price from month to month, conducted by the Department, reveals that in certain periods prices have been very low indeed, which must have affected raiyats very badly who had to sell their produce at such times. The effect of the low prices is, however, not so severe as it might be, because they have at the same time tended to reduce the cost of living and have also meant considerable reduction in the price of the articles which the raiyat has ordinarily to buy. In the absence of correct data, it will not be possible to assess the value of the mitigating circumstances to see to what extent there has been any counter balancing. Whatever it may be, it does not in anyway affect the hardship of the raiyat in the cases where payments have to be made in money, such as debt repayments, interest charges, taxes and the expenses of education, marriage and other celebrations and the increased amenities of life that have gradually come in. Many of the factors tending to keep down production have been acting through a series of years, the period of high prices notwithstanding, and the profits of farming have seldom admitted of anything but a moderate scale of living. Unless production is increased, assured and agriculture improved, these factors will remain with us, and operate to neutralise and nullify any measures of financial relief we may devise and adopt. They may be obscured for the time being and may not be felt, but they will be acting all the time and culminate again in a crisis, requiring a repetition of the same kind of relief. We therefore come again to the root of the problem, *viz.*, the improvement of agriculture itself through well recognised methods. All other measures will only afford temporary relief, if this root cause is not tackled.

I may, in passing, invite attention to the proportion which the ordinary assessment bears to the total cost of production. Taking the cases of the different crops mentioned, the proportion is as below:—

Ragi	...	3 per cent to 11 per cent.	Cotton	...	2 per cent to 12 per cent.
Jola	...	2 do to 12 per cent.	Groundnut	...	1 do to 6 per cent.
Paddy	...	12 do to 16 per cent.	Cocconut	...	20 do
Sugarcane	...	2 do to 4 per cent.	Areca	...	8 do

I do not at all minimise the importance of financial relief; for one thing, it will free the raiyat from the millstone round his neck and enable him to devote his attention to the improvement of his land and make use of such measures as we may sanction or recommend for the betterment of agriculture. Certainly, Government has not been slow to act in this matter and the list of recent measures for financial relief to agriculturists in the State is

certainly one with which one may feel gratified; other measures will, no doubt, be evolved as the result of the present discussions. Measures towards price stabilisation or enhancement, of the kind now adopted in the United States of America under the National Recovery Act and the Agricultural Adjustment Act not being possible with us for obvious reasons; others, if any, which will have the effect of increasing the cash return to the raiyat to some extent at least will have to be gone into. The most important of such measures relates to the marketing side of agriculture. I have already referred to the sale of produce by the raiyats in a glutted market when prices are low. To enable him to avoid this need, and to store his produce so as to release it for sale when prices are favourable will be a desirable step to take. To what extent such holding up will be possible or even desirable considering the deterioration in weight and quality likely in some cases, and what practical methods we may adopt such as the starting of Co-operative Sale Societies, the construction of storage godowns, financing of stored produce and so on, will all have to be examined. Better markets, and preparation for markets by grading and cleaning and control and regularising of marketing practices,—all these will have to be gone into, so that the produce may fetch as big a price as possible and the producer obtain as big a share of it as possible. The starting of a marketing study with a view to organizing a regular Marketing Board appears to be an important measure we can recommend.

Another financial measure which will have to be considered is the grant of Takavi Loans for agricultural improvement and especially for well sinking purpose. At present, the amount spent is, I venture to think very inadequate, at least four times that amount will have to be spent on this most important work, and I firmly believe that no better investment of Government funds can be thought of. At the same time, it will be advisable to simplify the procedure and speed up the sanction of individual loans, and also to reduce the interest charged. This will largely mitigate the present frequent failure of crops and will also enable raiyats to raise valuable commercial crops and increase their money return. The main objective should be, as I have already emphasised, the improvement of the agriculture of the State through well recognised methods and the voting of very much larger funds than is at present done for this purpose. I shall furnish figures for yields, cost of cultivation, etc., for the other crops like coffee, cardamom and mulberry in time for the next meeting, as these figures have not yet been received from my District Officers. The revision of the standard out-turns, talukwar, is a very elaborate work and will take some considerable time.

Supplemental Note by the Director of Agriculture.

In my note submitted already, I have stated that such measures of financial relief as we may decide upon, *viz.*, the writing down of debts, reduction of interest and the grant of loans at easier rates of interest and on better terms of repayment through Land Mortgage and other Banks will not secure the permanent betterment of the agriculturist, as long as the agricultural industry itself is not improved. This aspect of the problem is now generally accepted on all hands almost axiomatically. Side by side with these measures, therefore, and as an integral part of them should be set on foot schemes for the improvement of agriculture. The Department of Agriculture and the Board of Agriculture under the old Economic Conference have considered a large number of measures calculated to bring about such improvement. On the strictly agricultural side are those that relate to the supply of better implements, the introduction of new crops and high yielding varieties, the popularisation and supply of artificial fertilisers and manures and the control of diseases and, on the animal husbandry side the improvement of the sheep industry, the supply of breeding bulls, larger production of high grade Mysore cattle and the control of epidemic and other diseases. Various other measures have been fully considered by important *Ad-hoc* Committees appointed to look into the recommendations of the Royal Commission on Agriculture and Dr. Coleman's note thereon. The Department of Agriculture has done substantial work on every one of the lines indicated above and it is now necessary to expand the Department in such a manner that there will be a representative of the Department in every hobli of the State. A scheme drawn up some time back contemplated the strengthening of the scientific sections and the appointment of an Assistant Director for each district and an Agricultural Inspector for each taluk and a fieldman for each hobli, so that intensive work may be made possible and prompt measures taken when necessary as in the case of remedial measures for crop pests and diseases. It was also thought that such an organisation would attend to all matters of agricultural importance which though not strictly technical are still of great importance, such as, marketing surveys and improvements, co-operative agricultural organisations, advice regarding irrigation wells and pumps, etc. I am of opinion that the expansion of the Department in the above manner should be strongly recommended by the Committee. I am painfully aware, on the other hand, of the frequent occasions on which the grants are cut down in spite of my strong representations and of the set-back which such a cut naturally leads to. Far from such things happening, I think that a liberal budget for the Department of Agriculture should be a prominent feature of our State, and if this can be the outcome of our recommendations, we should have done much good.

Among extra departmental activities which are essential for agricultural improvement, I should put the matter of improved irrigation facilities in the foremost place. The opening of large irrigation works and the improvement of tanks, large and small, are always on the programme of the Government. But I would here draw attention to the need for well irrigation. At present outside of the channel areas crop raising is always precarious and our first endeavour should be to lift it out of this uncertainty and make it possible for a large number of agriculturists to raise an assured crop on some part of their holding, however small it may be. Well irrigation alone will do this. The introduction of rural electric supply which is expected to expand from year to year, is a helpful new feature in regard to well irrigation which deserves to be exploited in full. Depths greater than will be possible with bullocks can be thought of with the additional advantage of a larger supply and the serving of tracts of country which may not otherwise be possible. A larger permanent and profitable outlet will be provided for the electric power now at our disposal. A large grant of Takavi for well-sinking should be available, advanced either direct or through Co-operative Societies. The digging of new wells, deepening of existing wells, the digging of subsidiary wells under tanks, the furnishing of technical advice according to best known methods in regard to well sinking, prevention of caving in, bore holes and even the execution of well work should all be made the function of a special organisation which should be created. A ten-year programme should be drawn up and pursued steadfastly until we have protected a large section of the country especially in the central and eastern taluks of the State.

APPENDIX II.

QUESTIONNAIRE.

(Please specify the area to which your replies relate.)

- I. What are the principal food grains grown in the area? In what proportion are they consumed locally or exported to other places?
 To what extent are food grains imported into the area in normal years?
 Give the wholesale and retail prices of the several food grains referred to above for each of the years 1900, 1914, 1919, 1929, 1931, 1932, 1933 and 1934.
 What are the principal cash crops grown in the area? What proportion of the total acreage under cultivation do they constitute?
 Give the harvest prices of the principal cash crops during each of the years 1900, 1914, 1919, 1929, 1931, 1932, 1933 and 1934.
 Are stocks of grain more or less than in normal years?
- II. How far has the recent slump in prices affected the money income of the owners of:—
 - (a) Large holdings (over 50 acres)
 - (b) Medium holdings (10 to 50 acres)
 - (c) Small holdings (less than 10 acres)
 and of agricultural labourers?
- III. Has the change in prices affected the normal volume of export and import of trade in agricultural produce in the area? If so, in what manner and to what extent?
- IV. What is the present average value per acre, of dry, wet and garden lands in the area as compared with their value in 1929?
- V. Have the earnings of raiyats from subsidiary sources, (e.g., sale of milk, grass, hiring of carts, and wages for off-season labour) been affected, as a result of the economic depression?
 Is there evidence of any abnormal tendency to pawn jewels in order to meet cash obligations?
- VI. Describe the present methods of marketing the principal crops in your District and facilities that exist therefor.
 Do the present methods ensure a fair deal between the grower and the purchaser?
 If not, what suggestions have you to make on this point?

- VII. Describe the present system by which the agriculturists in your District obtain finance.
- What are the rates of interest charged on the several kinds of loans? Are any unfair or onerous conditions attached to these loans?
- Do you consider that the existing system of Takavi and Land Improvement loans is meeting the requirements of the raiyats at present? If not, what changes would you suggest in respect of the issue of loans, speedy disposal of applications, etc.?
- VIII. Can you give an estimate (based on personal knowledge or enquiry) about the extent and degree of indebtedness of:—
- (a) large landholders,
(b) cultivating proprietors,
(c) tenants.
- What is the average debt per head of the agricultural population and what proportion does it bear to the average value of land and to the land revenue assessment.
- Have any instances come to your notice of the transfers of land on a large scale from the agricultural to the non-agricultural classes on account of the present depression and the indebtedness of the raiyats?
- IX. What is your view about the desirability and possibility of introducing a scheme for the conciliation of the standing debts of the agriculturists?
- If you are in favour of such a scheme, should conciliation be made optional or compulsory and what, in your opinion, would be the best agency for the purpose?
- What arrangements and facilities would you suggest for the payment of the conciliated debt?
- X. (i) Do you consider the rates charged on loans to agriculturists to be generally reasonable or excessive?
- (ii) Is it desirable in view of the present depression, to limit by legislation the rate of interest on secured and unsecured loans? And if so, what limits would you suggest?
- (iii) Should the reduced rates be made applicable to past transactions? If so, from what date should they be so made applicable? State your reasons.
- (iv) Should such reduction apply to all debtors generally or to agriculturists and land owning classes only? In the latter case, define whom you would include in this category and state whether the resources of the agriculturists for getting the necessary finance for agricultural operations, etc., would be affected.
- XI. A statement of the several revenue concessions sanctioned by Government in view of the agricultural depression is appended.
- In what directions, if any, do these concessions need to be supplemented? Please give reasons.
- Have you any suggestions to make in regard to the mode of collecting land revenue, including miscellaneous revenue demands, e.g., cesses, village panchayet taxes.
- XII. It is stated that legislation regarding usurious loans has been a dead letter in some provinces. Can you state to what extent the Regulation in Mysore is being availed of? Have you any suggestions to make for greater use being made of it?
- XIII. What do you think of the effect of the working of the Agriculturists' Relief Regulation on the facilities for obtaining credit and to what extent has it curtailed such facilities? Do you think the Regulation requires any modification in view of the existing conditions?

APPENDIX TO THE QUESTIONNAIRE.

STATEMENT OF THE SEVERAL REVENUE CONCESSIONS SANCTIONED BY GOVERNMENT IN VIEW OF THE AGRICULTURAL DEPRESSION.

1. *Remission of Land Revenue.*—(a) The application of the rules of remission on wet lands has been liberalised, so as to make the rules applicable even in cases in which there was failure of crop during a single year (and not in three successive years).

(b) Grant of special remissions outside the ordinary rules in respect of tracts where there was widespread failure of crops, owing to excessive rains or other special causes.

2. *Moderation of Miscellaneous Demands.*—(a) Collection of Record of Rights fees has been made to commence one year after the completion of the preliminary record and option has been allowed to pay the fees in not more than three equal yearly instalments, subject to a minimum of Rs. 2 per instalment.

(b) Deputy Commissioners have been permitted to allow at their discretion suspension of payment of the instalment due on account of loans during the year 1933-34, and in special cases to suspend the repayment of one annual instalment in arrear, if such repayment is found to be unduly burdensome, no additional interest being charged by reason of these suspensions.

(c) Similar discretion was vested in the Deputy Commissioners in the matter of recovery of contribution for tank restoration and also of tank maintenance advances.

(d) Rates of ordinary and penal interest on Land Improvement and Takavi Loans have been temporarily reduced from 6½ and 8 per cent to 5½ and 6½ per cent respectively for one year from 1st January 1934.

III. *Relaxation of Coercive Processes.*—(a) Deputy Commissioners were permitted to give time to persons who had to make large payments of revenue.

(b) Forfeiture of lands for arrears of land revenue was ordered to be confined to those survey numbers on which the arrears were known to have accrued.

(c) Restoration of component survey numbers on which assessment was paid was permitted, although there were outstandings on the remaining survey numbers in the khate.

(d) It was ordered that no penalty or upset price need be levied, while restoring khates on payment of arrears and of costs.

(e) All notice and istihar fees were remitted after the arrears were paid before the official year, whether the arrears related to the year 1933-34 or previous years and whether the payment was made before or after the sale.

(f) Applications for restoration of khate were exempted from payment of stamp duty.

(g) Notice fee was reduced to four annas in all cases.

(h) Deputy Commissioners were directed to make a liberal use of the powers vested in them under Rule 35 of the Land Revenue Rules, as regards the remission of arrears without recourse to further process by distraint of movables or by proceeding against the other properties of the defaulter in cases where the holding which had been forfeited for default in payment of land revenue due thereon was not sold, or the sale proceeds thereof were not sufficient to meet the arrears.

APPENDIX III.

Statement showing the Land Revenue and other demands in the several Taluks of the Mysore State.

Taluk	L. R. Demand	Cesses	Total	Other demands						Percentage of other demands to Total Demand (Col. 11 to Cols. 4 +11)	
				Tank Restora-tion	Tank Main-tenance	R. R. Fees	L. I. Loan	Takavi Loan	V. P. Taxes		Total
1	2	3	4	5	6	7	8	9	10	11	12
KOLAR DISTRICT.											
Kolar	Rs. 1,89,921	Rs. 27,604	Rs. 2,17,525	Rs. 23,092	Rs. 28,596	Rs. 47,778	Rs. 6,192	Rs. 8,510	Rs. 15,116	Rs. 1,24,164	86.8
Bowringpet	1,53,070	22,732	1,75,802	15,306	9,701	...	6,105	5,261	15,209	51,592	29.8
Chintamani	1,63,042	25,201	1,88,243	4,634	4,444	146	2,691	3,043	18,149	33,107	14.9
Srinivaspur	1,56,259	23,765	1,80,024	18,621	18,985	...	7,510	4,087	12,214	56,417	31.8
Mulbagal	1,74,969	25,312	2,00,901	4,955	9,787	...	2,878	5,810	11,823	35,253	14.9
Sidlaghatta	1,33,041	18,476	1,51,517	4,632	4,285	40,818	3,786	2,623	9,604	65,698	30.2
Chikballapur	97,119	13,398	1,10,517	8,427	5,014	36,944	2,465	4,058	14,047	70,975	35.5
Bagepalli	1,59,659	15,095	1,74,754	4,213	508	46,696	5,570	3,385	17,004	77,376	30.6
Goribidnur	2,00,546	33,637	2,34,183	7,950	8,161	73,288	7,536	7,541	22,514	1,26,990	35.1
Malur	1,38,638	20,088	1,58,726	12,760	2,896	...	2,388	4,501	26,108	48,658	28.4
Gudibanda	40,130	6,938	47,068	4,596	238	13,908	1,891	3,920	3,415	27,968	37.8
KADUR DISTRICT.											
Chikmagalur	2,17,639	24,566	2,42,205	8,228	6,208	...	5,950	9,764	15,400	45,540	15.8
Kadur	2,08,277	31,753	2,40,030	8,556	4,740	16,287	2,371	1,317	18,638	51,854	17.7
Narasimharajapur	59,487	10,999	70,486	3,955	122	938	4,591	1,907	3,913	15,430	17.8
Koppa	1,14,853	27,569	1,42,422	2,100	...	4,040	5,257	2,763	6,575	20,736	12.7
Mudgere	1,54,028	26,644	1,80,672	...	...	...	5,977	5,037	12,008	28,022	11.3
Tarikere	1,45,476	23,845	1,69,321	4,367	12,222	4,638	640	1,266	21,414	44,547	21.8
BANGALORE DISTRICT.											
Bangalore	1,89,693	29,165	2,18,858	1,715	24,330	19,320	6,334	2,027	19,567	73,938	26.0
Kankanhalli	1,30,632	14,949	1,45,481	780	...	...	1,547	3,780	21,647	27,954	16.1
Magadi	1,52,269	20,123	1,72,392	2,734	...	59,811	839	745	13,962	77,904	31.1
Channarayana	1,07,432	13,030	1,20,462	6,166	11,684	82,820	2,771	2,300	14,952	1,20,683	50.0
Clostep	88,849	8,751	97,600	2,588	1,168	41,592	2,347	2,072	9,052	59,707	37.9
Dodballapur	1,92,173	23,471	2,15,644	2,918	20,074	69,162	8,811	8,971	15,417	1,15,349	34.8
Nelazangala	1,48,846	18,864	1,67,710	7,660	9,640	59,498	2,557	1,852	14,560	35,762	27.1
Hoskote	1,98,405	23,182	2,21,587	5,414	14,074	...	3,575	2,223	12,721	88,067	24.6
Devanahalli	1,45,511	18,499	1,64,010	...	7,440	...	1,204	779	8,741	18,164	9.9
Anekal	1,58,490	17,456	1,75,946	2,135	2,586	...	1,123	1,430	21,864	29,138	14.2
SHIMOGA DISTRICT.											
Shimoga	1,18,735	30,849	1,49,584	3,750	190	764	5,893	6,263	17,237	34,097	18.5
Tirthahalli	1,91,767	36,935	2,28,702	67	...	...	2,323	2,230	9,020	14,206	5.8
Sorab	2,38,631	39,929	2,78,560	3,502	7,770	2,688	1,567	6,844	18,686	41,037	12.8
Kumri	42,970	7,667	50,637	4,203	2,459	...	1,039	2,068	8,999	14,566	22.3
Channarayana	1,70,641	23,180	1,93,821	6,094	4,025	57,135	618	1,133	23,811	92,516	32.8
Shikarapur	1,81,642	29,492	2,11,134	1,100	135	4,123	1,422	3,085	6,936	23,751	10.1
Sagar	1,75,619	31,955	2,06,574	1,000	487	1,300	3,063	1,266	12,011	19,107	8.4
				Contri- bution 1,000 }							
Honnali	1,34,673	16,944	1,51,617	9,875	294	25,846	147	3,788	14,348	47,376	23.2
Nagar	1,21,792	21,278	1,43,070	1,923	...	10,438	1,217	805	4,354	18,242	11.8

Statement showing the Land Revenue and other Demands in the Several Taluks of the Mysore State—contd.

Taluk	L. R. Demand	Cesses	Total	Other demands							Percentage of other demands to Total Demand (of col. to cols. 4 and 11)
				Tank Restora-tion	Tank Mainten-ance	R. R. Fees	L. I. Loan	Takavi Loan	V. P. Taxes	Total	
1	2	3	4	5	6	7	8	9	10	11	12
CHITALDRUG DISTRICT.											
Chitaldrug	Rs. 1,89,864	Rs. 20,568	Rs. 1,60,427	Rs. 2,066	Rs. 3,989	Rs. 27,691	Rs. 3,116	Rs. 1,517	Rs. 19,069	Rs. 57,409	36.8
Challakere	1,87,508	24,795	1,62,808	7,163	1,089	14,829	8,323	2,673	19,149	49,219	30.9
Hiriyur	1,10,290	18,726	1,29,016	1,349	1,295	40,562	1,969	2,682	18,681	66,266	51.3
			Contribution	4,525							
Holalkere	1,16,428	15,612	1,32,040	211	1,972	8,876	517	619	18,548	30,596	23.2
Davangere	1,33,286	18,481	1,51,717	41	1,783	5,568	380	885	20,668	29,770	19.6
Molakalmuru	60,662	10,169	70,831	...	3,969	4,988	842	1,870	10,547	22,216	31.2
Jagalur	78,782	10,457	89,239	1,250	2,499	...	609	925	12,851	17,684	19.8
Hosdurga	87,788	18,768	1,01,501	...	15,091	57,209	552	1,608	28,329	97,789	96.4
Harihar	88,748	11,540	95,288	...	...	899	146	292	14,187	14,964	15.6
TUMKUR DISTRICT.											
Tumkur	1,98,078	81,578	2,29,651	4,546	14,182	40,006	5,494	8,572	90,021	1,02,821	44.8
Kunigal	1,47,046	28,876	1,70,922	46	2,624	1,38,498	7,287	2,497	20,028	*1,70,970	100.0
Sira	1,98,758	26,890	2,20,148	2,368	1,181	...	18,981	7,616	22,148	52,244	23.7
Tiptur	1,88,998	26,892	2,15,828	4,152	8,902	29,748	4,188	888	20,408	69,286	32.1
Madhugiri	1,56,725	26,230	1,82,955	8,294	7,889	...	44,852	25,175	22,908	1,04,112	56.9
Chiknaisanballi	1,27,695	20,842	1,48,537	1,385	6,312	...	2,972	1,291	17,450	29,980	20.2
Gubbi	2,24,996	29,166	2,54,182	8,087	14,847	71,288	14,552	11,387	29,818	1,44,979	57.1
Pavagada	1,00,122	15,660	1,15,802	4,800	14,400	...	23,149	12,337	17,977	73,168	63.2
Taruvekere	96,952	11,981	1,08,933	8,045	2,584	51,889	8,999	1,221	11,980	74,088	67.9
Koratagere	84,990	18,899	98,889	1,982	6,976	...	7,255	5,569	15,885	37,617	38.0
HASSAN DISTRICT.											
Hassan	2,89,019	26,654	2,65,678	16,986	1,256	...	8,370	904	17,926	40,444	15.4
Belur	1,78,118	29,075	2,07,193	...	4,891	...	8,197	1,822	18,590	28,500	13.8
Manjarabad	1,86,276	25,431	2,11,707	2,464	...	14,261	9,246	1,768	11,292	39,046	18.4
Arsikere	1,99,802	25,998	2,25,295	1,811	6,292	...	2,140	2,590	24,298	27,116	12.0
Holenarsipur	1,06,860	11,997	1,18,857	2,445	609	98,792	2,244	952	9,174	1,14,517	96.4
			Contribution	...	...	20,440	1,598	390	6,081	32,659	27.5
Alur	78,505	8,562	87,067	4,200	...	...	...	...	...	...	...
Channarayana	2,48,468	25,936	2,74,404	8,946	2,481	2,04,817	1,224	424	18,100	2,80,991	102.3
Arkalgud	1,49,879	18,590	1,68,969	...	...	1,10,682	1,467	990	18,100	1,26,239	74.8
MYSORE DISTRICT.											
Gundlupet	1,05,276	18,212	1,18,488	15,972	78	...	8,804	2,050	20,948	42,652	35.2
Krishnarajpete	2,12,086	81,584	2,48,820	23,281	6,076	...	2,731	667	24,500	57,255	23.0
Mysore	1,84,666	19,435	1,54,101	12,445	831	80,282	5,406	1,015	16,040	65,468	42.3
Madur	1,24,636	18,639	1,43,275	5,183	...	...	2,894	592	20,000	1,17,188	81.8
Water rate	51,176	5,603	1,98,059	*86,429	...	...	...	...	...	...	...
Mandya	1,02,809	18,555	1,15,864	1,699	...	...	...	...	...	...	...
	*Irwin Canal	Contribution	...	*1,88,812	15,893	...	8,179	1,684	18,120	2,28,827	197.6

Statement showing the Land Revenue and other demands in the several Taluks of the Mysore State—concl'd.

District	L. R. Demand	Cesses	Total	Other Demands							Percentage of other demands to total demand (of col. 11 to cols. 4 and 11)	
				Tank Restoration	Tank Maintenance	R. R. Fees	L. I. Loan	Takavi Loan	V. P. Taxes	Total		
1	2	3	4	5	6	7	8	9	10	11	12	
MYSORE DISTRICT—concl'd.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.		
Seringapatam ...	2,51,969	36,464	2,88,433	1,610	906	65,600	638	281	17,200	1,11,661	27.9	
Malavalli ...	90,867	19,818	1,04,685	25,576	828	...	15,074	1,101	15,466	27,928	20.7	
Obamarsanagar' ...	1,69,016	26,012	1,97,028	6,412	1,947	...	12,734	91,267	10,054	2,398	44.9	
Heggaddevankote ...	75,055	9,740	84,795	1,471	620	1,115	...	6,772	794	9,716	18.9	
Periyapatna ...	61,723	8,459	70,182	...	...	1,476	...	746	121	8,543	18.4
Nanjangud ...	2,22,911	81,794	2,54,705	8,922	497	87,745	6,183	2,017	24,495	2,45,994	49.0	
Nagamangala ...	1,85,199	19,601	1,59,794	1,20,875	4,046	1,367	2,10,442	2,528	2,239	19,483	2,39,045	60.8
Krishnarajnagar (Yedatore) ...	3,14,704	59,380	3,73,119	4,286	1,184	4,815	...	22,959	80,903	17.8
Hunsur ...	1,19,265	18,044	1,32,309	52,209	1,856	...	3,884	948	16,967	85,830	21.8	
T.-Narsipur ...	2,08,608	28,554	2,37,267	1,99,229	1,624	97,179	11,852	29,593	17,609	2,56,926	60.0	

* Acreage Contribution

† Tank Restoration

‡ Contribution

Statement showing the Land Revenue and other demands in the several Districts of the Mysore State.

District	L. R. Demand	Cesses	Total	Other Demands							Percentage of other demands to total demand (of col. 11 to cols. 4 and 11)
				Tank Restoration	Tank Maintenance	R. R. Fees	L. I. Loan	Takavi Loan	V. P. Taxes	Total	
1	2	3	4	5	6	7	8	9	10	11	12
Bangalore ...	15,12,198	1,87,495	16,99,693	82,095	90,984	3,81,998	26,101	21,239	1,64,608	6,56,020	27.8
Kolar ...	16,06,414	2,32,246	18,38,660	1,04,026	87,565	3,59,578	48,972	52,739	1,65,203	7,16,068	28.1
Tumkur ...	15,19,353	2,25,794	17,45,147	28,135	74,846	3,30,874	1,32,669	76,493	2,06,598	8,51,610	29.7
Mysore ...	28,83,430	3,41,998	32,25,428	7,66,803	48,365	5,25,365	65,489	51,820	2,72,294	17,99,185	29.7
Hasan ...	18,85,927	1,70,238	15,56,165	32,152	15,821	4,49,012	24,486	9,885	1,16,506	6,49,519	29.4
Shimoga ...	13,76,470	2,37,584	16,14,054	25,519	16,360	1,02,294	16,784	32,822	1,12,402	3,05,181	15.9
Kadur ...	8,99,760	1,45,376	10,45,136	27,211	23,287	26,947	24,786	22,054	77,944	2,01,129	16.1
Chitaldrug ...	9,48,326	1,44,068	1,0,87,363	16,616	81,625	1,61,162	11,467	12,504	1,51,423	3,84,796	26.1
Total ...	1,16,26,658	1,6,84,787	1,33,11,645	10,34,556	3,97,658	22,46,180	8,50,754	2,79,506	12,66,967	55,66,466	29.4

APPENDIX IV.

Statement showing the area (in acres) under occupation and crops in the State :—

Year	Area under occupation	Area cropped
1905-06	72,57,499	57,73,717
1911-12	75,45,519	60,47,453
1916-17	78,43,601	65,25,850
1921-22	79,14,982	60,72,140
1926-27	80,22,536	64,28,714
1927-28	80,42,673	64,57,389
1928-29	80,78,126	65,30,420
1929-30	81,21,045	67,11,450
1930-31	51,16,062	66,38,685
1931-32	79,75,639	65,75,488
1932-33	79,47,016	66,14,171
1933-34	79,31,629	65,64,472

PUNJAB LEGISLATIVE COUNCIL.

Bill No. 17 of 1934.

The Punjab Relief of Indebtedness Bill.

A Bill to provide for the relief of indebtedness and the improvement of agrarian credit in the Punjab.

WHEREAS it is expedient to amend the law relating to relations between debtors and creditors ;

And whereas the previous sanction of the Governor-General required under section 80-A (8) of the Government of India Act and the previous sanction of the Governor required under section 80-C of the said Act have been obtained ;

It is hereby enacted as follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be called the Punjab Relief of Indebtedness Act,
Short title, extent and commencement. 193 .

(2) This Part and Parts III, IV, V, VI and VII shall extend to the whole of the Punjab and Part II to such areas as the Local Government may from time to time, by notification, direct.

(3) This Act shall come into force on such date as the Local Government may, by notification, appoint in this behalf.

2. In this Act, unless there is anything repugnant in the subject or context—

(1) "Agriculturists" means—

(a) a landowner who earns his livelihood from agriculture either with his own hands or by his servants or tenants, or

(b) a tenant or servant of a landowner as defined in clause (a).

Explanation :—

(i) An agriculturist who, temporarily ceases to earn his livelihood as such or is prevented from so doing by reason of age or bodily infirmity or by reason of his employment in the military or naval service of His Majesty, does not by such cessation, inability or employment lose his status as an agriculturist.

(ii) A village menial living outside the limit of any municipality, notified area, or small town, and paid in cash or in kind for work connected with agriculture shall be deemed an agriculturist within this definition.

(2) "Interest" means rate of interest and includes the return to be made over and above what was actually lent whether the same is charged or sought to be recovered specifically by way of interest or otherwise.

(3) "Loan" means a loan whether of money or in kind and includes any transaction which is in the opinion of the Court in substance a loan.

PART II.

INSOLVENCY PROCEDURES.

3. In clause (a) of sub-section (1) of section 10 of the Provincial Insolvency Act, 1920 (hereinafter referred to as the said Act), for the words "five hundred rupees" the words "two hundred and fifty rupees" shall be substituted.

V of 1920.

Amendment of section 10 of the Provincial Insolvency Act, 1920.

4. In section 7 of the said Act, for the words "five hundred rupees" the words "one thousand rupees" shall be substituted.

Amendment section 7 of the Provincial Insolvency Act, 1920

PART III.

USURIOUS LOANS.

5. In section 3 of the Usurious Loans Act, 1918—

X of 1918.

Amendment of the Usurious Loans Act, 1918.

- (i) for the word "and" in clause (a) of sub-section (1) the word "or" shall be substituted;
- (ii) for the word "may" after the word "court" in clause (b) of the same sub-section, the word "shall" shall be substituted;
- (iii) for the word "may" after the word "namely" in clause (b) of the same sub-section, the word "shall" shall be substituted;
- (iv) to clause (a) of sub-section (2) the following provisos shall be added, namely:—

"Provided that, the court shall not deem interest to be excessive, if on loans advanced on the security of immovable property or pledge of movable property, it does not exceed 8 per cent. compound interest with annual rests or 10 per cent. simple interest, and, if on other loans, it does not exceed 10 per cent. compound interest with annual rests or 15 per cent. simple interest:

Provided further, that the court shall deem interest to be excessive if, on loans advanced on the security of immovable property or pledge of movable property, it exceeds 12 per cent. compound interest with annual rests or 15 per cent. simple interest, and, if on other loans, it exceeds 18 per cent. compound interest with annual rests or 24 per cent. simple interest."

PART IV.

DEBT CONCILIATION BOARDS.

6. (1) "Debt" includes all liabilities of an agriculturist in cash or in kind, secured or unsecured, payable under a decree or order of a civil court or otherwise

Interpretation clause (definition).

whether mature or not, but shall not include trading debts, arrears of wages, land revenue or anything recoverable as an arrear of land revenue.

(2) "Debtor" means an agriculturist whose debt amounts to a sum prescribed by the Local Government for the area in which he resides.

(3) "Prescribed" means prescribed by rules made under this part of the Act.

7. (1) The Local Government may, for the purposes of amicable settlement between agriculturist debtors and their creditors, establish a Debt Conciliation Board for any area in the Punjab.

(2) Such Board shall consist of a chairman and two or more members to be appointed by the Local Government, which may, for reasons to be recorded in writing, cancel the appointment of any member or dissolve any Board.

(3) The chairman and every member of a Board so established shall be appointed for a term not exceeding three years, but shall be eligible for re-appointment on the expiry of his term.

(4) The quorum of a Board shall be prescribed by the Local Government.

(5) Where the chairman and members of a Board are not unanimous, the opinion of the majority shall prevail, and if the Board is equally divided, the chairman shall exercise a casting vote.

8. A debtor or any of his creditors may apply to the Board appointed for the area in which a debtor resides or holds any land, to effect a settlement between the debtor and his creditors.

9. Every application to a Board shall be in writing and be signed by the applicant.

10. (1) Every application presented by a debtor to a Board shall contain the following particulars, namely,—

- (a) a statement that he owes the prescribed amount of debts ;
- (b) the place where he resides or holds his land ;
- (c) the particulars of all claims against him, together with the names and residences of his creditors ;
- (d) the particulars of all his property, together with a specification of the value of such property and the place or places at which any such property is to be found ;
- (e) a statement that he is unable to pay his debts.

4

(2) Every application presented by a creditor shall contain the following particulars, namely,—

- (a) the place where the debtor resides or holds his land ;
- (b) the amount or particulars of his claim against such debtor ;
- (c) a statement that the debtor owes the prescribed amount of debts ;
- (d) a statement that the debtor is unable to pay his debts.

11. (1) On receipt of an application under section 8, the Board shall pass an order fixing a date and place for hearing the application :

Procedure on receipt of application.

Provided that the Board may at any time dismiss the application if, for reasons to be stated in writing, it does not consider it desirable to attempt to effect a settlement between the debtor and his creditors.

(2) Notice of the order under sub-section (1) shall be sent to creditors by registered post, and, where the debtor is not the applicant notice of the order under sub-section (1) shall be sent to him in a similar manner.

12. (1) If, after examining the debtor the Board is of opinion that it is desirable to effect a settlement between him and his creditors it shall publish, in such manner as may be prescribed, a notice, calling upon every creditor of the debtor to submit a statement of debts owed to such creditor by the debtor. Such statement shall be submitted to the Board in writing within two months from the date of publication of the notice :

Notice calling upon creditors to submit statements of debts.

Provided that, if the Board is satisfied that any creditor was, for good and sufficient cause, unable to comply with such directions within the time fixed, it may extend the period for the submission of his statement of the debts owed to him.

(2) Every debt, of which a statement is not submitted to the Board in compliance with the provisions of sub-section (1) shall be deemed for all purposes and all occasions to have been duly discharged.

13. (1) Every creditor submitting in compliance with a notice issued under sub-section (1) of section 12 a statement of the debts owed to him shall furnish, along with such statement, full particulars of all such debts, and shall at the same time produce all documents (including entries in books of account) on which he relies to support his claims, together with a true copy of every such document.

Procedure on submission of statements of debts.

(2) The Board shall, after marking for the purpose of identification every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the creditor.

14. The Board shall call upon the debtor and each creditor to explain his case regarding each debt, and shall use its best endeavours to induce them to arrive at an amicable settlement.

15. Any Board empowered under this Act may exercise all such powers connected with the summoning and examining of parties and witnesses and with the production of documents as are conferred on civil courts by the Code of Civil Procedure, and every proceeding before the Board shall be deemed a judicial proceeding.

16. (1) If the debtor and creditors to whom not less than sixty per cent. of the total amount of the debtor's debts are due come to an amicable settlement, the Board shall forthwith reduce such settlement to writing in the form of an agreement setting forth the amounts payable to each creditor and the manner in which and the times at which they are to be paid. Such agreement shall be read out and explained to the parties concerned, and shall be signed or otherwise authenticated by the Board and the parties.

(2) An agreement thus made shall within seven days from the date of its authentication be registered under the Indian Registration Act, 1908, by the Chairman of the Board in such manner as may be prescribed, and it shall then take effect as if it were a decree of a civil court.

17. If no amicable settlement is arrived at under sub-section (1) of section 16, the Board shall dismiss the application.

18. (1) Where, during the hearing of any application made under section 8, any creditor refuses to agree to an amicable settlement, the Board may, if it is of opinion that the debtor has made such creditor a fair offer which the creditor ought reasonably to accept, grant the debtor a certificate, in such form as may be prescribed, in respect of the debts owed by him to such creditor.

(2) Where any creditor sues in a civil court for the recovery of a debt in respect of which a certificate has been granted under sub-section (1), the court shall, notwithstanding the provisions of

any law for the time being in force, not allow the plaintiff any costs in such suit, or any interest on the debt after the date of registration under section 16 or certification under sub-section (1) in excess of simple interest at six per cent. per annum on the amount due on the date of such certificate.

V of 1908.

(3) Where, after the registration of an agreement under sub-section (2) of section 16 or certification any unsecured creditor sues for the recovery of a debt in respect of which a certificate has been granted under sub-section (1) or any creditor sues for the recovery of a debt incurred after the date of such registration any decree passed in such suit shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, not be executed until all amounts recorded as payable under such agreement have been paid.

19. No civil court shall entertain —
Bar of civil suits.

(a) any suit —

(i) to question the validity of any procedure or the legality of any agreement made under this Act, or

(ii) to recover any debt recorded as wholly or partly payable under an agreement registered under sub-section (2) of section 16 from any person who, as a debtor, was party to such agreement, or

(iii) to recover any debt which has been deemed to have been duly discharged under sub-section (2) of section 12 ;

(b) any application to execute a decree, the execution of which is suspended under sub-section (3) of section 18.

20. No appeal or application for revision shall lie against any order passed by a Board.
Bar of appeal for revision.

21. A Board may, on the application from any person interested, review any order passed by it and pass such order in reference thereto as it thinks fit ;
Power of Board to review its order.

Provided that no order shall be reversed unless notice has been given to the persons interested to appear and be heard in support of such order.

22. In any proceedings under this Part of the Act any party may with the permission of the Board be represented by an agent authorised in writing, but not by a legal practitioner.
Appearance of party before Board by agent, but not by legal practitioner.

23. When an application has been made to a Board under section 8, any suit or other proceedings then pending before a civil court in respect of any debt for the settlement of which application has been made shall be suspended until the Board has dismissed the application or an agreement has been registered under sub-section (2) of section 16.

24. The members of a Board shall be deemed to be public servants within the meaning of the Indian Penal Code.

25. The local Government may make any rules consistent with this Act to carry out the purposes thereof, and in particular and without prejudice to the generality of the foregoing power may make rules—

- (a) prescribing the amount of debt for the purposes of section 6 (2) ;
- (b) prescribing the quorum for and regulating the procedure before a Board ;
- (c) prescribing the charges to be made by a Board for anything done under this Act and the persons by whom and the manner in which such charges shall be paid ;
- (d) prescribing the records to be kept and the returns to be made by a Board ;
- (e) prescribing the allowances to be paid to members of a Board ;
- (f) prescribing the place at which and the manner in which an agreement shall be registered under sub-section (2) of section 16 ;
- (g) prescribing the form of certificate to be granted under sub-section (1) of section 18 ; and
- (h) generally, for the purpose of carrying into effect the provisions of this Act.

26. In making any rule the local Government may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees, and, where the breach is a continuing one, with further fine which may extend to ten rupees for every day after the first during which the breach continues.

PART V.

WARRANT OF ARREST.

27. In Order 21, Rule 87 (1), of the Code of Civil Procedure for the word "may" after the words "the court" and before the words "instead of issuing a warrant for his arrest" the word "shall" shall be substituted.

28. In Order 21, Rule 40 (2), of the Code of Civil Procedure for the year 1908. Amendment of word "may" between rule 40 (2) of Order 21 of the Code of Civil Procedure. and the words "the court" and the words "take into consideration" the word "shall" shall be substituted.

PART VI.

DAMDUPAT.

29. (1) In any suit brought, after the commencement of this Act, against an agriculturist for the recovery of a loan borrowed before the commencement of this Act, no court shall grant a decree in satisfaction both of principal and interest for a larger sum than twice the amount which the Court finds to have been due at the commencement of this Act.

(2) In any suit brought against an agriculturist for the recovery of a loan borrowed after the commencement of this Act, no court shall pass a decree for a larger sum than twice the amount of the sum taken as principal.

(3) Notwithstanding anything to the contrary in this Act, a court may grant a decree to a Bank against an agriculturist for any sum found due.

PART VII.

DEPOSIT IN COURT.

30. (1) An agriculturist debtor may, at any time, deposit in court a sum of money in full or part payment of his debt for payment to his creditor.

(2) The court on receipt of such deposit shall give notice thereof to the creditor and shall, on his application, pay the sum to him.

(3) From the date of such deposit interest shall cease to run on the sum so deposited.

31. (1) The Local Government may make rules for carrying into effect the provisions of this Part of the Act.

Power of Local Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing powers such rules may provide —

(a) for determining the court into which the sum shall be deposited ;

(b) the procedure for keeping accounts of such deposits and the manner in which notices are to be served on creditors and payments made to them.

STATEMENT OF OBJECTS AND REASONS.

In 1929 the total volume of agricultural debt in the Punjab was estimated by the Provincial Banking Enquiry Committee at 135 crores of rupees. Since that date the sharp fall in the prices of agricultural produce has made the pressure of debt on the cultivator even heavier than these figures indicate, and the problem of finding some relief has now become a very acute one. At the end of March 1932 the Punjab Government appointed a committee of members of the Legislative Council to consider this problem and to submit proposals for its solution. The report of the Committee has been debated in the Legislative Council, and has been for some time under the careful and detailed consideration of Government, which have also been studying the steps taken in other provinces for the relief of indebtedness. In formulating the legislative measures embodied in this Bill, the Punjab Government have endeavoured to hold the balance fairly between the debtor and creditor and to give the former such relief as is possible without making any change in the law which might have the effect of destroying or seriously impairing the whole system of rural credit.

2. Part I of the Bill is preliminary and contains only certain definitions. That of "agriculturist" is based on the Deccan Agriculturists Relief Act. The definitions of "interest" and "loan" are taken from the Usurious Loans Act, 1918.

3. Part II of the Bill proposes to amend the Provincial Insolvency Act, 1920, so as to enable debtors, whose debts exceed Rs. 250 and whose total property does not exceed Rs. 1,000, to take advantage of the simplified procedure provided by section 74 of that Act.

4. Part III of the Bill proposes to amend the Usurious Loans Act, 1918. Under section 8 of that Act the Court has discretion to take certain action to relieve the debtor if it has reason to believe that two conditions exist, *viz.*, (a) that the interest charged is excessive, and (b) that the transaction as between the parties thereto was substantially unfair. The amendment proposed will make it obligatory on the court to take one of the forms of action laid down in section 3 of the Act of 1918 if either of the above conditions is satisfied.

The Bill further seeks to define what rates of interest shall and shall not be deemed to be excessive.

This part of the Bill is taken with very slight changes from the United Provinces "Reduction of Interest Bill."

5. Part IV of the Bill, which is modelled on the Central Provinces Debt Conciliation Bill, is intended to enable Government to set up Debt Conciliation Boards in any area in the Province, and defines the powers and functions of such Boards and the effect of a reference to a Board. It is the intention of Government, if this part of the Bill is passed into law, to set up Debt Conciliation Boards as an experimental measure in one or two carefully selected areas. The extension of the system will depend on the success attending the experiment.

6. Part V of the Bill proposes to amend the provisions of the Code of Civil Procedure dealing with the arrest and detention of a judgment debtor. Under the Code a court may either issue a warrant for the arrest of a judgment debtor or may issue a notice calling upon him to show cause why he should not be committed to the civil prison. Clause 27 of the Bill makes it obligatory for the court to issue a notice before issuing a warrant for arrest. Clause 28 makes it obligatory, instead of discretionary as at present for the court to take into consideration any allegations made by the decree-holder before disallowing an application for the arrest of a judgment debtor.

7. Part VI introduces the ancient rule of "Damdapat" in the case of all suits brought against agriculturist debtors. Loans by banks are not subject to the provisions of this part of the Bill, which is based on the Bengal Money-lenders Bill.

8. Part VII is designed to enable an agriculturist debtor to make a deposit in court, either in full or in part payment of his debt, with a view to relieve him from the burden of interest. A similar provision is to be found in the United Provinces Agriculturists Relief Bill.

H. D. CRAIK,

Member incharge.

D. RAM LAL,

Offg. Secretary, Legislative Department.

LAHORE :

ABNASHA SINGH,

The 9th March 1934.

Secretary, Punjab Legislative Council.

N.B.—This Bill was published in the Punjab Government Gazette Extraordinary, dated the 8th March 1934, under Rule 18 of the Punjab Legislative Council Rules.

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Government Gazette Extraordinary

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, THURSDAY, MARCH 8, 1934.

LEGISLATIVE DEPARTMENT.

The 8th March 1934.

No. 149.—The Punjab Relief of Indebtedness Bill is published under rule 18 of the Punjab Legislative Council Rules for general information :—

The Punjab Relief of Indebtedness Bill.

A Bill to provide for the relief of indebtedness and the improvement of agrarian credit in the Punjab.

WHEREAS it is expedient to amend the law relating to relations between debtors and creditors ;

And whereas the previous sanction of the Governor-General required under section 80-A (B) of the Government of India Act and the previous sanction of the Governor required under section 60 C of the said Act have been obtained ;

It is hereby enacted as follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be called the Punjab Relief of Indebtedness Act,
Short title, extent and commencement. 193 . . .

(2) This Part and Parts III, IV, V, VI and VII shall extend to the whole of the Punjab and Part II to such areas as the Local Government may from time to time, by notification, direct.

(3) This Act shall come into force on such date as the Local Government may, by notification, appoint in this behalf.

2. In this Act, unless there is anything repugnant in the subject or context—

(1) "Agriculturists" means—

(a) a landowner who earns his livelihood from agriculture either with his own hands or by his servants or tenants, or

(b) a tenant or servant of a landowner as defined in clause (a).

Explanation :—

(i) An agriculturist who, temporarily ceases to earn his livelihood as such or is prevented from so doing by reason of age or bodily infirmity or by reason of his employment in the military or naval service of His Majesty, does not by such cessation, inability or employment lose his status as an agriculturist.

(ii) A village menial living outside the limit of any municipality, notified area, or small town, and paid in cash or in kind for work connected with agriculture shall be deemed an agriculturist within this definition.

(2) "Interest" means rate of interest and includes the return to be made over and above what was actually lent whether the same is charged

or sought to be recovered specifically by way of interest or otherwise.

- (3) "Loan" means a loan whether of money or in kind and includes any transaction which is in the opinion of the Court in substance a loan.

PART II.

INSOLVENCY PROCEDURE.

V. of 1920.

3. In clause (a) of sub-section (1) of section 10 of the Provincial Insolvency Act, 1920 (hereinafter referred to as the said Act), for the words "five hundred rupees" the words "two hundred and fifty rupees" shall be substituted.

4. In section 74 of the said Act, for the words "five hundred rupees" the words "one thousand rupees" shall be substituted.

Amendment of section 74 of the Provincial Insolvency Act, 1920.

PART III.

USURIOUS LOANS.

X of 1918.

5. In section 3 of the Usurious Loans Act, 1918—

Amendment of the Usurious Loans Act, 1918.

- (i) for the word 'and' in clause (a) of sub-section (1) the word 'or' shall be substituted;
- (ii) for the word 'may' after the word 'court' in clause (b) of the same sub-section, the word 'shall' shall be substituted;
- (iii) for the word 'may' after the word 'namely' in clause (b) of the same sub-section, the word 'shall' shall be substituted;
- (iv) to clause (a) of sub-section (2) the following provisos shall be added, namely:—

Provided that the court shall not deem interest to be excessive, if on loans advanced on the security of immovable property or pledge of movable property, it does not exceed 8 per cent. compound interest with annual rests or 10 per cent. simple interest, and, if on other loans, it does not exceed 10 per cent. compound interest with annual rests or 15 per cent. simple interest.

Provided further, that the court shall deem interest to be excessive if, on loans advanced on the security of immovable property or pledge of movable property, it exceeds 12 per cent. compound interest with annual rests or 15 per cent. simple interest, and, if on other loans, it exceeds 18 per cent. compound interest with annual rests or 24 per cent. simple interest."

PART IV.

DEBT CONCILIATION BOARDS.

6. (1) "Debt" includes all liabilities of an agriculturist in cash or in kind, secured or unsecured, payable under a decree or order of a civil court or otherwise, whether mature or not, but shall not include trading debts, arrears of wages, land revenue or anything recoverable as an arrear of land revenue.

(2) "Debtor" means an agriculturist whose debt amounts to a sum prescribed by the Local Government for the area in which he resides.

(3) "Prescribed" means prescribed by rules made under this part of the Act.

7. (1) The Local Government may, for the purposes of amicable settlement between agriculturist debtors and their creditors, establish a Debt Conciliation Board for any area in the Punjab.

(2) Such Board shall consist of a chairman and two or more members to be appointed by the Local Government, which may, for reasons to be recorded in writing, cancel the appointment of any member or dissolve any Board.

(3) The chairman and every member of a Board so established shall be appointed for a term not exceeding three years, but shall be eligible for re-appointment on the expiry of his term.

(4) The quorum of a Board shall be prescribed by the Local Government.

(5) Where the chairman and members of a Board are not unanimous, the opinion of the majority shall prevail, and if the Board is equally divided, the chairman shall exercise a casting vote.

8. A debtor or any of his creditors may apply to the Board appointed for the area in which a debtor resides or holds any land, to effect a settlement between the debtor and his creditors.

9. Every application to a Board shall be in writing and be signed by the applicant.

10. (1) Every application presented by a debtor to a Board shall contain the following particulars, namely,—

- (a) a statement that he owes the prescribed amount of debts;
- (b) the place where he resides or holds his land;
- (c) the particulars of all claims against him, together with the names and residences of his creditors;
- (d) the particulars of all his property, together with a specification of the value of such property and the place or places at which any such property is to be found;

(c) a statement that he is unable to pay his debts.

(2) Every application presented by a creditor shall contain the following particulars, namely,—

(a) the place where the debtor resides or holds his land ;

(b) the amount or particulars of his claim against such debtor ;

(c) a statement that the debtor owes the prescribed amount of debts ;

(d) a statement that the debtor is unable to pay his debts.

11. (1) On receipt of an application under section 8, the Board shall pass an order fixing a date and place for hearing the application :

Provided that the Board may at any time dismiss the application if, for reasons to be stated in writing, it does not consider it desirable to attempt to effect a settlement between the debtor and his creditors.

(2) Notice of the order under sub-section (1) shall be sent to creditors by registered post, and, where the debtor is not the applicant notice of the order under sub-section (1) shall be sent to him in a similar manner.

12. (1) If, after examining the debtor the Board is of opinion that it is desirable to effect a settlement between him and his creditors it shall publish, in such manner as may be prescribed, a notice, calling upon every creditor of the debtor to submit a statement of debts owed to such creditor by the debtor. Such statement shall be submitted to the Board in writing within two months from the date of publication of the notice :

Provided that, if the Board is satisfied that any creditor was, for good and sufficient cause, unable to comply with such directions within the time fixed, it may extend the period for the submission of his statement of the debts owed to him.

(2) Every debt, of which a statement is not submitted to the Board in compliance with the provisions of sub-section (1) shall be deemed for all purposes and all occasions to have been duly discharged.

13. (1) Every creditor submitting in compliance with a notice issued under sub-section (1) of section 12 a statement of the debts owed to him shall furnish, along with such statement, full particulars of all such debts, and shall at the same time produce all documents (including entries in books of account) on which he relies to support his claims, together with a true copy of every such document.

(2) The Board shall, after marking for the purpose of identification every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the creditor.

14. The Board shall call upon the debtor and each creditor to explain his case regarding each debt, and shall use its best endeavours to induce them to arrive at an amicable settlement.

15. Any Board empowered under this Act may exercise all such powers connected with the summoning and examining of parties and witnesses and with the production of documents as are conferred on civil courts by the Code of Civil Procedure, and every proceeding before the Board shall be deemed a judicial proceeding.

16. (1) If the debtor and creditors to whom not less than sixty per cent. of the total amount of the debtor's debts are due come to an amicable settlement, the Board shall forthwith reduce such settlement to writing in the form of an agreement setting forth the amounts payable to each creditor and the manner in which and the times at which they are to be paid. Such agreement shall be read out and explained to the parties concerned, and shall be signed or otherwise authenticated by the Board and the parties.

(2) An agreement thus made shall within seven days from the date of its authentication be registered under the Indian Registration Act, 1908, by the Chairman of the Board in such manner as may be prescribed, and it shall then take effect as if it were a decree of a civil court.

17. If no amicable settlement is arrived at under sub-section (1) of section 16, the Board shall dismiss the application.

18. (1) Where, during the hearing of any application made under section 8, any creditor refuses to agree to an amicable settlement, the Board may, if it is of opinion that the debtor has made such creditor a fair offer which the creditor ought reasonably to accept, grant the debtor a certificate, in such form as may be prescribed, in respect of the debts owed by him to such creditor.

(2) Where any creditor sues in a civil court for the recovery of a debt in respect of which a certificate has been granted under sub-section (1), the court shall, notwithstanding the provisions of

any law for the time being in force, not allow the plaintiff any costs in such suit, or any interest on the debt after the date of registration under section 16 or certification under sub-section (1) in excess of simple interest at six per cent. per annum on the amount due on the date of such certificate.

(3) Where, after the registration of an agreement under sub-section (2) of section 16 or certification any unsecured creditor sues for the recovery of a debt in respect of which a certificate has been granted under sub-section (1) or any creditor sues for the recovery of a debt incurred after the date of such registration any decree passed in such suit shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, not be executed until all amounts recorded as payable under such agreement have been paid.

V of 1908.

19. No civil court shall entertain —

Bar of civil suits.

(a) any suit —

(i) to question the validity of any procedure or the legality of any agreement made under this Act, or

(ii) to recover any debt recorded as wholly or partly payable under an agreement registered under sub-section (2) of section 16 from any person who, as a debtor, was party to such agreement, or

(iii) to recover any debt which has been deemed to have been duly discharged under sub-section (2) of section 12;

(b) any application to execute a decree, the execution of which is suspended under sub-section (3) of section 18.

20. No appeal or application for revision shall lie against any order passed by a Board.

Bar of revision.

21. A Board may, on the application from any person interested, review any order passed by it and pass such order in reference thereto as it thinks fit;

Provided that no order shall be reversed unless notice has been given to the persons interested to appear and be heard in support of such order.

22. In any proceedings under this Part of the Act any party may with the permission of the Board be represented by an agent authorised in writing, but not by a legal practitioner.

Appearance of party before Board by agent, but not by legal practitioner.

23. When an application has been made to a Board under section 8, any suit or other proceedings then pending before a civil court in respect of any debt for the settlement of which application has been made shall be suspended until the Board has dismissed the application or an agreement has been registered under sub-section (2) of section 16.

Suspension of pending application or suit.

24. The members of a Board shall be deemed to be public servants within the meaning of the Indian Penal Code.

Members of Boards deemed to be public servants.

25. The local Government may make any rules consistent with this Act to carry out the purposes thereof, and in particular and without prejudice to the generality of the foregoing power may make rules—

- (a) prescribing the amount of debt for the purposes of section 6 (2);
- (b) prescribing the quorum for and regulating the procedure before a Board;
- (c) prescribing the charges to be made by a Board for anything done under this Act and the persons by whom and the manner in which such charges shall be paid;
- (d) prescribing the records to be kept and the returns to be made by a Board;
- (e) prescribing the allowances to be paid to members of a Board;
- (f) prescribing the place at which and the manner in which an agreement shall be registered under sub-section (2) of section 16;
- (g) prescribing the form of certificate to be granted under sub-section (1) of section 18; and
- (h) generally, for the purpose of carrying into effect the provisions of this Act.

26. In making any rule the local Government may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees, and, where the breach is a continuing one, with further fine which may extend to ten rupees for every day after the first during which the breach continues.

Penalty for breach of the rules.

PART V.

WARRANT OF ARREST.

27. In Order 21, Rule 87 (1), of the Code of Civil Procedure for the word "may" after the words "the court" and before the words "instead of issuing a warrant for his arrest" the word "shall" shall be substituted.

Amendment of rule 87 (1) of Order 21 of the Code of Civil Procedure.

28. In Order 21, Rule 40 (2), of the Code of Civil Procedure for the word "may" between the words "the court" and the words "take into consideration" the word "shall" shall be substituted.

Amendment of rule 40 (2) of Order 21 of the Code of Civil Procedure.

PART VI.

DAMDUPAT.

29. (1) In any suit brought, after the commencement of this Act, against an agriculturist for the recovery of a loan borrowed before the commencement of this Act, no court shall grant a decree in satisfaction both of principal and interest for a larger sum than twice the amount which the Court finds to have been due at the commencement of this Act.

Damdapat.

(2) In any suit brought against an agriculturist for the recovery of a loan borrowed after the commencement of this Act, no court shall pass a decree for a larger sum than twice the amount of the sum taken as principal.

(3) Notwithstanding anything to the contrary in this Act, a court may grant a decree to a Bank against an agriculturist for any sum found due.

PART VII.

DEPOSIT IN COURT.

30. (1) An agriculturist debtor may, at any time, deposit in court a sum of money in full or part payment of his debt for payment to his creditor.

(2) The court on receipt of such deposit shall give notice thereof to the creditor and shall, on his application, pay the sum to him.

(3) From the date of such deposit interest shall cease to run on the sum so deposited.

31. (1) The Local Government may make rules for carrying into effect the provisions of this Part of the Act.

Power of Local Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing powers such rules may provide —

(a) for determining the court into which the sum shall be deposited;

(b) the procedure for keeping accounts of such deposits and the manner in which notices are to be served on creditors and payments made to them.

STATEMENT OF OBJECTS AND REASONS.

In 1929 the total volume of agricultural debt in the Punjab was estimated by the Provincial Banking Enquiry Committee at 185 crores of rupees. Since that date the sharp fall in the prices of agricultural produce has made the pressure of debt on the cultivator even heavier than these figures indicate, and the problem of finding some relief has now become a very acute one. At the end of March 1932 the Punjab Government appointed a committee of members of the Legislative Council to consider this problem and to submit proposals for its solution. The report of the Committee has been debated in the Legislative Council, and has been for some time under the careful and detailed consideration of Government, which have also been studying the steps taken in other provinces for the relief of indebtedness. In formulating the legislative measures embodied in this Bill, the Punjab Government have endeavoured to hold the balance fairly between the debtor and creditor and to give the former such relief as is possible without making any change in the law which might have the effect of destroying or seriously impairing the whole system of rural credit.

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H. D. CRAIK,
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Offg. Secretary, Legislative Department.

Published by order of His Excellency the Governor.

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The Government Gazette

PUNJAB AND ITS DEPENDENCIES.

Published by Authority

No. 11.

LAHORE, FRIDAY, MARCH 16, 1934.

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Nothing for publication.

PART I.

Punjab Government Notifications and Orders.

LEGISLATIVE DEPARTMENT

The 8th March 1934.

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(4) The quorum of a Board shall be prescribed by the Local Government.

(5) Where the chairman and members of a Board are not unanimous, the opinion of the majority shall prevail, and if the Board is equally divided, the chairman shall exercise a casting vote.

8. A debtor or any of his creditors may apply to the Board appointed for the area in which a debtor resides or holds any land, to effect a settlement between the debtor and his creditors.

9. Every application to a Board shall be in writing and be signed by the applicant.

10. (1) Every application presented by a debtor to a Board shall contain the following particulars, namely,—

- (a) a statement that he owes the prescribed amount of debts;
- (b) the place where he resides or holds his land;
- (c) the particulars of all claims against him, together with the names and residences of his creditors;
- (d) the particulars of all his property, together with a specification of the value of such property and the place or places at which any such property is to be found;
- (e) a statement that he is unable to pay his debts.

(2) Every application presented by a creditor shall contain the following particulars, namely,—

- (a) the place where the debtor resides or holds his land;
- (b) the amount or particulars of his claim against such debtor;
- (c) a statement that the debtor owes the prescribed amount of debts;
- (d) a statement that the debtor is unable to pay his debts.

11. (1) On receipt of an application under section 8, the Board shall pass an order, fixing a date and place for hearing the application:

Provided that the Board may at any time dismiss the application if, for reasons to be stated in writing, it does not consider it desirable to attempt to effect a settlement between the debtor and his creditors.

(2) Notice of the order under subsection (1) shall be sent to creditors by registered post, and, where the debtor is not the applicant notice of the order under subsection (1) shall be sent to him in a similar manner.

12. (1) If, after examining the debtor the Board is of opinion that it is desirable to effect a settlement between him and his creditors it shall publish, in such manner as may be prescribed, a notice calling upon every creditor of the debtor to submit a statement of debts owed to such creditor by the debtor. Such statement shall be submitted to the Board in writing within two months from the date of publication of the notice:

Provided that, if the Board is satisfied that any creditor was, for good and sufficient cause, unable to comply with such directions

within the time fixed, it may extend the period for the submission of his statement of the debts owed to him.

(2) Every debt, of which a statement is not submitted to the Board in compliance with the provisions of sub-section (1) shall be deemed for all purposes and all occasions to have been duly discharged.

13. (1) Every creditor submitting in compliance with a notice issued under sub-section (1) of section 12 a statement of the debts owed to him shall furnish, along with such statement, full particulars of all such debts, and shall at the same time produce all documents (including entries in books of account) on which he relies to support his claims, together with a true copy of every such document.

(2) The Board shall, after marking for the purpose of identification every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the creditor.

14. The Board shall call upon the debtor and each creditor to explain his case regarding each debt, and shall use its best endeavours to induce them to arrive at an amicable settlement.

15. Any Board empowered under this Act may exercise all such powers connected with the summoning and examining of parties and witnesses and with the production of documents as are conferred on civil courts by the Code of Civil Procedure, and every proceeding before the Board shall be deemed a judicial proceeding.

16. (1) If the debtor and creditors to whom not less than sixty per cent. of the total amount of the debtor's debts are due come to an amicable settlement, the Board shall forthwith reduce such settlement to writing in the form of an agreement setting forth the amounts payable to each creditor and the manner in which and the times at which they are to be paid. Such agreement shall be read out and explained to the parties concerned, and shall be signed or otherwise authenticated by the Board and the parties.

(2) An agreement thus made shall within seven days from the date of its authentication be registered under the Indian Registration Act, 1908, by the Chairman of the Board in such manner as may be prescribed, and it shall then take effect as if it were a decree of a civil court,

17. If no amicable settlement is arrived at under sub-section (1) of section 16, the Board shall dismiss the application.

18. (1) Where, during the hearing of any application made under section 8, any creditor refuses to agree to an amicable settlement, the Board may, if it is of opinion that the debtor has made such creditor a fair offer which the creditor ought reasonably to accept, grant the debtor a certificate, in such form as may be prescribed, in respect of the debts owed by him to such creditor.

(2) Where any creditor sues in a civil court for the recovery of a debt in respect of which a certificate has been granted under sub-section (1), the court shall, notwithstanding the provisions of any law for the time being in force, not allow the plaintiff any costs in such suit, or any interest on the debt after the date of registration under section 16 or certification under sub-section (1) in excess of simple interest at six per cent. per annum on the amount due on the date of such certificate.

(3) Where, after the registration of an agreement under sub-section (2) of section 16 or certification any unsecured creditor sues for the recovery of a debt in respect of which a certificate has been granted under sub-section (1) or any creditor sues for the recovery of a debt incurred after the date of such registration any decree passed in such suit shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, not be executed until all amounts recorded as payable under such agreement have been paid.

19. No civil court shall entertain —
Bar of civil suits,

(a) any suit —

(i) to question the validity of any procedure or the legality of any agreement made under this Act, or

(ii) to recover any debt recorded as wholly or partly payable under an agreement registered under sub-section (2) of section 16 from any person who, as a debtor, was party to such agreement, or

(iii) to recover any debt which has been deemed to have been duly discharged under sub-section (2) of section 12;

(b) any application to execute a decree, the execution of which is suspended under sub-section (3) of section 18.

V of 1908.

V of 1908.

XVII of 1908.

20. No-appeal or application for revision shall lie against any order passed by a Board.

Bar of appeal for revision.

21. A Board may, on the application from any person interested, review any order passed by it and pass such order in reference thereto as it thinks fit :

Power of Board to review its order.

Provided that no order shall be reversed unless notice has been given to the persons interested to appear and be heard in support of such order.

22. In any proceedings under this Part of the Act any party may with the permission of the Board be represented by an agent authorised in writing, but not by a legal practitioner.

Appearance of party before Board by agent, but not by legal practitioner.

23. When an application has been made to a Board under section 8, any suit or other proceedings then pending before a civil court in respect of any debt for the settlement of which application has been made shall be suspended until the Board has dismissed the application or an agreement has been registered under subsection (2) of section 16.

Suspension of pending application or suit.

24. The members of a Board shall be deemed to be public servants within the meaning of the Indian Penal Code.

Members of Boards deemed to be public servants.

25. The local Government may make any rules consistent with this Act to carry out the purposes thereof, and in particular and without prejudice to the generality of the foregoing power may make rules—

Power to make rules.

- (a) prescribing the amount of debt for the purposes of section 6 (2) ;
- (b) prescribing the quorum for and regulating the procedure before a Board ;
- (c) prescribing the charges to be made by a Board for anything done under this Act and the persons by whom and the manner in which such charges shall be paid ;
- (d) prescribing the records to be kept and the returns to be made by a Board ;
- (e) prescribing the allowances to be paid to members of a Board ;
- (f) prescribing the place at which and the manner in which an agreement shall be registered under subsection (2) of section 16 ;

(g) prescribing the form of certificate to be granted under sub-section (1) of section 18 ; and

(h) generally, for the purpose of carrying into effect the provisions of this Act.

26. In making any rule the local Government may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees, and, where the breach is a continuing one, with further fine which may extend to ten rupees for every day after the first during which the breach continues.

PART V.

WARRANT OF ARREST.

27. In Order 21, Rule 37 (1), of the Code of Civil Procedure for the word " may " after the words " the court " and before the words " instead of issuing a warrant for his arrest," the word " shall " shall be substituted.

Amendment of rule 37 (1) of Order 21 of the Code of Civil Procedure.

V of 1908.

28. In Order 21, Rule 40 (2), of the Code of Civil Procedure for the word " may " between the words " the court " and the words " take into consideration " the word " shall " shall be substituted.

Amendment of rule 40 (2) of Order 21 of the Code of Civil Procedure.

V of 1908.

PART VI.

DAMDUPAT.

29. (1) In any suit brought, after the commencement of this Act, against an agriculturist for the recovery of a loan borrowed before the commencement of this Act, no court shall grant a decree in satisfaction both of principal and interest for a larger sum than twice the amount which the Court finds to have been due at the commencement of this Act.

Damdapat.

(2) In any suit brought against an agriculturist for the recovery of a loan borrowed after the commencement of this Act, no court shall pass a decree for a larger sum than twice the amount of the sum taken as principal.

(3) Notwithstanding anything to the contrary in this Act, a court may grant a decree to a Bank against an agriculturist for any sum found due.

PART VII.

DEPOSIT IN COURT.

30. (1) An agriculturist debtor may, at any time, deposit in court a sum of money in full or part payment of his debt for payment to his creditor.

Deposit in court.

(2) The court on receipt of such deposit shall give notice thereof to the creditor and shall, on his application, pay the sum to him.

(3) From the date of such deposit interest shall cease to run on the sum so deposited.

31. (2) The Local Government may make rules for carrying into effect the provisions of this Part of the Act.

Power of Local Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing powers such rules may provide —

(a) for determining the court into which the sum shall be deposited;

(b) the procedure for keeping accounts of such deposits and the manner in which notices are to be served on creditors and payments made to them.

STATEMENT OF OBJECTS AND REASONS.

In 1929 the total volume of agricultural debt in the Punjab was estimated by the Provincial Banking Enquiry Committee at 135 crores of rupees. Since that date the sharp fall in the prices of agricultural produce has made the pressure of debt on the cultivator even heavier than these figures indicate, and the problem of finding some relief has now become a very acute one. At the end of March 1932 the Punjab Government appointed a committee of members of the Legislative Council to consider this problem and to submit proposals for its solution. The report of the Committee has been debated in the Legislative Council, and has been for some time under the careful and detailed consideration of Government, which have also been studying the steps taken in other provinces for the relief of indebtedness. In formulating the legislative measures embodied in this Bill, the Punjab Government have endeavoured to hold the balance fairly between the debtor and creditor and to give the former such relief as is possible without making any change in the law which might have the effect of destroying or seriously impairing the whole system of rural credit.

2. Part I of the Bill is preliminary and contains only certain definitions. That of "agriculturist" is based on the Deccan Agriculturists Relief Act. The definitions of "interest" and "loan" are taken from the Usurious Loans Act, 1918.

3. Part II of the Bill proposes to amend the Provincial Insolvency Act, 1920, so as to enable debtors, whose debts exceed Rs. 250 and whose total property does not exceed Rs. 1,000, to take advantage of the simplified procedure provided by section 74 of that Act.

4. Part III of the Bill proposes to amend the Usurious Loans Act, 1918. Under section 3 of that Act the Court has discretion to take certain action to relieve the debtor if it has reason to believe that two conditions exist, *viz.*, (a) that the interest charged is excessive, and (b) that the transaction as between the parties thereto was substantially unfair. The amendment proposed will make it obligatory on the court to take one of the forms of action laid down in section 3 of the Act of 1918 if either of the above conditions is satisfied.

The Bill further seeks to define what rates of interest shall and shall not be deemed to be excessive.

This part of the Bill is taken with very slight changes from the United Provinces "Reduction of Interest Bill."

5. Part IV of the Bill, which is modelled on the Central Provinces Debt Conciliation Bill, is intended to enable Government to set up Debt Conciliation Boards in any area in the Province, and defines the powers and functions of such Boards and the effect of a reference to a Board. It is the intention of Government, if this part of the Bill is passed into law, to set up Debt Conciliation Boards as an experimental measure in one or two carefully selected areas. The extension of the system will depend on the success attending the experiment.

6. Part V of the Bill proposes to amend the provisions of the Code of Civil Procedure dealing with the arrest and detention of a judgment debtor. Under the Code a court may either issue a warrant for the arrest of a judgment debtor or may issue a notice calling upon him to show cause why he should not be committed to the civil prison. Clause 27 of the Bill makes it obligatory for the court to issue a notice before issuing a warrant for arrest. Clause 28 makes it obligatory, instead of discretionary as at present, for the court to take into consideration any allegations made by the decree-holder before disallowing an application for the arrest of a judgment debtor.

7. Part VI introduces the ancient rule of "Damdupat" in the case of all suits brought against agriculturist debtors. Loans by banks are not subject to the provisions of this part of the Bill, which is based on the Bengal Money-lenders Bill.

8. Part VII is designed to enable an agriculturist debtor to make a deposit in court, either in full or in part payment of his debt, with a view to relieve him from the burden of interest. A similar provision is to be found in the United Provinces Agriculturists Relief Bill.

H. D. CRAIK,
Member incharge.

D. RAM LAL,
Offg. Secretary, Legislative Department.

Published by order of His Excellency the Governor.

D. RAM LAL,
Offg. Secretary, Legislative Department.

HOME DEPARTMENT.

LEGISLATIVE.

The 8th March 1934.

No. 7897.—His Excellency the Governor of the Punjab is pleased to accept the resignation of Khan Bahadur Dr. K. A. Rahman of his seat as a member of the Punjab Legislative Council.

No. 7898.—Under the provisions of rule 26 (2) of the Punjab Electoral Rules, His Excellency the Governor of the Punjab is pleased to nominate Mr. R. N. Parker, I.F.S., being an official, to be a member of the Punjab Legislative Council in the vacancy caused by the resignation of Khan Bahadur Dr. K. A. Rahman.

The 9th March 1934.

No. 7977.—His Excellency the Governor of the Punjab is pleased to accept the resignation of Mr. J. W. Hearn, I.C.S., of his seat as a member of the Punjab Legislative Council.

No. 7978.—Under the provisions of rule 26 (2) of the Punjab Electoral Rules, His Excellency the Governor of the Punjab is pleased to nominate Mr. B. M. Staig, I.C.S., being an official, to be a member of the Punjab Legislative Council in the vacancy caused by the resignation of Mr. J. W. Hearn, I.C.S.

The 10th March 1934.

No. 8087.—His Excellency the Governor of the Punjab is pleased to accept the resignation of Mr. R. N. Parker, I.F.S., of his seat as a member of the Punjab Legislative Council.

No. 8088.—Under the provisions of rule 26 (2) of the Punjab Electoral Rules, His Excellency the Governor of the Punjab is pleased to nominate Mr. J. W. Hearn, I.C.S., being an official, to be a member of the Punjab Legislative Council in the vacancy caused by the resignation of Mr. R. N. Parker, I.F.S.

The 12th March 1934.

No. 8280.—His Excellency the Governor of the Punjab is pleased to accept the resignation of Khan Sahib Shaikh Fazal Ilahi of his seat as a member of the Punjab Legislative Council.

No. 8281.—Under the provisions of rule 26 (2) of the Punjab Electoral Rules, His Excellency the Governor of the Punjab is pleased to nominate Khan Bahadur Nawab Muzaffar Khan, C.I.E., being an official, to be a member of the Punjab Legislative Council in the vacancy caused by the resignation of Khan Sahib Shaikh Fazal Ilahi.

The 13th March 1934.

No. 8479.—His Excellency the Governor of the Punjab is pleased to accept the resignation of Khan Bahadur Mian Mushtaq Ahmad Gurmani of his seat as a member of the Punjab Legislative Council.

No. 8480.—Under the provisions of rule 26 (2) of the Punjab Electoral Rules, His Excellency the Governor of the Punjab is pleased to nominate Khan Bahadur Dr. K. A. Rahman to be a member of the Punjab Legislative Council in the vacancy caused by the resignation of Khan Bahadur Mian Mushtaq Ahmad Gurmani.

C. C. GARBETT,
Chief Secretary to Government, Punjab.

GAZETTE.

APPOINTMENTS, POSTINGS AND TRANSFERS.

The 14th March 1934.

No. 8663.—The Governor in Council is pleased to make the following appointments, postings and transfers with effect from the dates mentioned :—

Name.	Rank.	Appointed.	Posted or transferred to	With effect from	REMARKS.
Lieut J. E. A. Bazalgette.	Probationer of the Political Department of the Government of India.	..	Ferozepore ..	28th February 1934.	
Rai Sahib Pandit Sri Kishan,	Extra Assistant Commissioner, Gujranwala.	Sub-Divisional Officer, Alipur.	..	3rd March 1934 (afternoon).	Relieving S. S. Sardar Harbel Singh, who proceeds on leave.
Mirza Abdal Rab	Subordinate Judge	Additional District and Sessions Judge, Ferozepore.	..	5th March 1934	Relieving Mr. G. U. Whitehead, I.C.S., transferred.
Lala Kishan Chand Mathur.	Extra Assistant Commissioner, Lahore.	..	Kasur ..	Ditto.	
Mr. G. U. Whitehead, I.C.S.	Additional District and Sessions Judge, Ferozepore.	Offg. District and Sessions Judge, Miánwáli	..	10th March 1934 (afternoon).	Relieving S. Shankat Hussain.
Chaudhri Surat Singh.	Extra Assistant Commissioner, Hisar.	..	Karnal ..	Ditto.	Relieving Rai Sahib Lala Ragbir Singh, transferred.

LEAVE.

The 14th March 1934.

No. 8664.—The Governor in Council is pleased to grant leave to the following officers :—

Name.	Rank.	Period of leave.	Nature of leave and rule under which granted.	With effect from	REMARKS.
Mr. J. A. Mackeown, I.C.S.	Deputy Commissioner.	8 months	Leave on average pay under rule 81 of the Fundamental Rules.	7th February 1934 (afternoon).	
S. S. Sardar Harbel Singh.	Sub-Divisional Officer, Alipur.	2 months ..	Ditto	3rd March 1934 (afternoon).	
Mr. P. R. B. May, I.C.S.	Officiating District and Sessions Judge, Miánwáli.	8 months ..	Leave on average pay for 6 months and the balance on half average pay under rule 81 of the Fundamental Rules.	5th March 1934 (afternoon).	

RETIREMENT.

The 12th March 1934.

No. 8260.—Sardar Sahib Sardar Gur Partab Singh, Extra Assistant Commissioner, retired from the Punjab Civil Service with effect from the 7th February 1934.



The Government Gazette

PUNJAB AND ITS DEPENDENCIES.

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LAHORE, FRIDAY, OCTOBER 19, 1934.

PART V.

PUNJAB LEGISLATIVE COUNCIL.

NOTIFICATION.

The 15th October 1934.

No. 21.—His Excellency the Governor of the Punjab has been pleased to nominate the Hon'ble Khan Bahadur Captain Sardar Sir Sikander Hyat-Khan, K.B.E., as a member of the Standing Finance Committee of the Punjab Legislative Council, *vice* the Hon'ble Sir Miles Irving, C.I.E., O.B.E., I.C.S.

The 18th October 1934.

No. 22.—The following report of the Select Committee on the Punjab Relief of Indebtedness Bill as presented in the Punjab Legislative Council on the 18th October 1934, is published under Standing Order 44 of the Punjab Legislative Council Standing Orders :—

ABNASHA SINGH,

Secretary, Punjab Legislative Council.

Report of the Select Committee on the Punjab Relief of Indebtedness Bill.

THE Select Committee appointed to consider and report on the Punjab Relief of Indebtedness Bill held meetings on the 27th, 28th, 29th, 30th of August, 4th, 5th, 6th, 8th, 10th, 11th and 12th of September under the presidency of the Hon'ble Finance Member. All members attended the meetings except Sardar Habib Ullah on the 27th, 28th, 29th and 30th of August; Sardar Bishan Singh on the 27th, 28th and

29th of August, Mr. Manohar Lal on the 5th and 6th of September, and Raja Narendra Nath on the 11th and 12th of September. The meeting on the 21st of September was attended by all except Raja Narendra Nath and Mr. Manohar Lal.

The Committee beg to report as follows :—

1. *Preamble*.—It was decided to amend the title of the Bill by the omission of the words “ and the improvement of agrarian credit,” which are inconsistent with the purpose of the Bill.

2. *Clause 2*.—As agreement could not be reached about the definition of “ agriculturist ” it was decided to omit altogether the definition of “ agriculturist,” and to replace it in clause 7 by a definition of “ debtor.”

3. *Clause 3*.—It was unanimously decided to restrict the operation of this clause to persons entitled to summary administration of their estates, following the recommendation of the Hon'ble Judges of the High Court. The whole clause was redrafted accordingly.

4. *Clause 4*.—The Committee decided that in place of the words “ one thousand rupees ” the words “ fifteen hundred rupees ” should be substituted.

5. *Clause 5*.—The Committee by a majority decided to redraft sub-clause (iv) (1) with the object of making the courts deem all compound interest to be excessive except in certain transactions of which the details are taken from section 2, sub-section (7) of the Punjab Regulation of Accounts Act, 1930, of which sub-clause (g) has itself been amended in order to give greater relief to “ debtors ” as defined in this Act.

The Committee by a majority amended the second proviso to sub-clause (iv), altering the rates of interest to be deemed excessive from 12 to 8 per cent. simple interest on secured debts, and on unsecured from 24 to 18½ per cent.

The Committee by a majority added a further sub-clause (3) with the object of making the courts deem a transaction carrying compound interest as defined in sub-clause (1) to be substantially unfair.

(New clause.)

6. *Clause 6*.—The Committee by a majority inserted this clause by making Part III of the Bill retrospective.

(Old clause 6.)

7. *Clause 7, sub-clause (1)*.—(1) The Committee redrafted the definition of “ Debt ” with the objects of—

(i) bringing it into accord with the new definition of “ Debtor ” in sub-clause (2) ;

(ii) excluding debts barred by limitation ; and

(iii) excluding debts due to co-operative banks and societies and commercial banks.

The Committee also altered the drafting of “ trading debts ”.

(2) The Committee by a majority inserted a definition of “ Debtor ” to take the place of the definition of “ agriculturist ” omitted from clause 2.

(3) The Committee unanimously adopted the definition of “ Agriculture ” found in the English Small Holdings' Act, 1892, 55 and 56 V. C. 31.

The sub-clauses have been renumbered accordingly.

The Committee unanimously decided that in the definition of “ Debtor ” no sum should be prescribed.

(Old clause 7.)

8. *Clause 8*.—The Committee unanimously decided to redraft the portion of this clause empowering the Local Government to define the local limits of the jurisdiction of a Board.

The Committee by a majority decided to fix the jurisdiction of the Board at Rs. 10,000 or such larger amount as the Local Government might prescribe for any area in place of leaving the jurisdiction of the Local Government unfettered.

9. *Clause 9.*—The Committee decided by a majority to make a consequential amendment in clause 9 following on the decision about pecuniary jurisdiction in clause 8, sub-clause (3). (Old clause 8.)

10. *Clause 10.*—The Committee decided unanimously that a verification of the application is necessary. (Old clause 9.)

11. *Clause 11.*—In sub-clause (1) (d) and (2) (c) the Committee decided upon consequential amendments and omitted the original sub-clause (1) (a) as unnecessary in view of the redrafting of clauses 8 and 9. (Old clause 10.)

12. *Clause 12.*—In sub-clause (2) the Committee decided unanimously to add the words "with acknowledgment due" after the words "registered post."

The Committee by a majority decided to omit the proviso to the first sub-clause.

13. *Clause 13.*—The Committee made a consequential amendment arising from the omission of the proviso to clause 12 (1), and further decided unanimously to insert a proviso to sub-clause (2) allowing a creditor to avoid the consequences of the sub-clause by proving that he had not received service of notice. (Old clause 12.)

14. *Clause 14.*—The Committee decided unanimously to insert a proviso to sub-clause (1) making a decree or order of a civil court conclusive evidence as to the amount of the debt. (Old clause 13.)

15. *Clause 17.*—The Committee by a majority decided to omit the words "to whom not less than sixty per cent. of the total amount of the debtor's debts are due" in sub-clause (1) and to insert in their place the words "all or any of the". (Old clause 16.)

The Committee also decided to give the Board power to refuse to authenticate an agreement if the Board held unanimously that the period agreed upon for payment was excessive.

The Committee unanimously decided to add to the sub-clause the words "The Board shall also pass an order dismissing the application so far as it relates to the creditors who have not come to an amicable settlement," in order to make the order of the Board complete.

Sub-clause (2).—The Committee unanimously decided that the procedure for registration was complex and unnecessary and redrafted the sub-clause accordingly.

16. *Clause 18.*—The Committee unanimously decided that it was necessary to add a clause compelling an applicant to conduct his application with due care and diligence, and has drafted accordingly. (New clause.)

17. *Clause 19.*—In sub-clauses (2) and (3) the Committee made an amendment consequential on the abolition of the procedure for registration.

At the end of sub-clause (3) the Committee unanimously decided to strike out the words "all amounts recorded as payable under such agreement have been paid" and in their place inserted the words "six months after the expiry of the period fixed in the agreement authenticated under sub-section (1) of section 17."

18. *Clause 20.*—In sub-clause (2) the Committee made an amendment consequential on the abolition of the procedure for registration. (Old clause 19.)

19. *Clause 22.*—The Committee unanimously agreed to the excision of the words "in reference to" and to the redrafting of the proviso. The only change in substance has been the insertion of the words "or modifying". (Old clause 21.)

20. *Clause 23.*—The Committee unanimously decided to allow legal practitioners to appear in proceedings before Boards. (Old clause 23.)

21. *Clause 24.*—The Committee unanimously decided to redraft this clause in order to prevent civil courts from entertaining new suits or (Old clause 23.)

other proceedings instituted during the pendency of any application before the Board.

(New clause.)

22. *Clause 25.*—The Committee unanimously decided to insert a new clause extending limitation.

(Old clause 25.)

23. *Clause 27.*—The Committee unanimously decided to require previous publication of any rules made by the Local Government and drafted sub-clause (2) accordingly.

The Committee unanimously agreed to a redraft of sub-clause (1) (f) consequential on the abolition of the procedure for registration.

24. The Committee unanimously decided that in view of additions proposed to the Bill, Part V would more properly be incorporated in Part VIII of the amended Bill. The remaining parts and clauses of the Bill have been renumbered in accordance with this decision.

(Old clause 29.)

25. *Clause 29.*—The Committee unanimously decided in sub-clauses (1) and (2) to insert the words " a debtor as defined in section 7 " in place of the words " an agriculturist ". These amendments are consequential on the excision of the definition of " agriculturist ".

The Committee unanimously decided as a further consequential amendment to strike out sub-clause (3).

(Old clause 30.)

26. *Clause 30.*—The Committee unanimously decided to redraft sub-clause (1) with a view to making this Part of the Bill of universal application.

(Old clause 31.)

27. *Clause 31.*—The Committee decided to add a sub-clause (3) making it necessary for the Local Government to publish rules made under this clause.

28. The Committee by a majority decided to frame clauses amending the existing law :—

- (1) increasing the areas and sum in sub-section (3) (a) of section 1 of the Redemption of Mortgages (Punjab) Act, II of 1913—clause 32 ;
- (2) arrest in execution of decrees—clause 33 ;
- (3) the protection accorded under section 60 (1) (e) of the Civil Procedure Code, 1908, to buildings occupied by an agriculturist—clause 34. The protection given by the existing law as interpreted by the courts is inadequate ;
- (4) by omitting the penal clause in sub-rule (3) of Order XXI, Rule 2, of the Civil Procedure Code, 1908—clause 35 ; at present sub-rule 1 is in form jussive, but the penalty for failure to certify falls on the judgment-debtor and not on the decree-holder ;
- (5) changing the period of limitation for the execution of a decree from twelve years to six—clause 36 ; the existing period is too long and leads to the harassment of a judgment-debtor ;
- (6) transferring from the Civil courts to the Collector the execution of decrees in which there is a temporary attachment and alienation of the land of an agriculturist—clause 37, the Collector already is consulted and the courts as a rule follow his advice. It is a simplification of procedure to transfer the whole of this work to the Collector ;
- (7) fixing the onus of proof of consideration entered in a bond or any other document on the creditor—clause 38. The courts at present require a low standard of proof of consideration, and the illiterate debtor is put at a grave disadvantage.

None of these proposals are found in the Bill as originally introduced in the Legislative Council except that for an alteration in the law regulating the arrest of a debtor in execution of a decree ; the original proposal about this has been altogether changed.

29. In the opinion of the Select Committee the Bill has been so altered as to require republication.

30. A copy of the Bill as redrafted by the Select Committee is appended. The Bill was originally published in the *Punjab Government Gazette Extraordinary* of Thursday, the 8th of March 1934.

*CHHOTU RAM.
 *RIASAT ALL.
 *MUHAMMAD HAYAT QURESRI.
 *AKBAR ALLI.
 *BUTA SINGH.
 *BISHAN SINGH.
 *†HABIB ULLAH.
 *MUKAND LAL PURI.
 *D. J. BOYD.
 *J. D. ANDERSON.
 *MILES IRVING.
 *MANOHAR LAL.
 *NARENDRA NATH—24-9-34.

Minutes of Dissent.

I.

We sign this report subject to our right to move or support any amendment in Council.

MILES IRVING—24-9-34.

J. D. ANDERSON—24-9-34.

D. J. BOYD—24-9-34.

II.

THE Bill as originally introduced in the Council was no better than a toy. Even as a toy it was not sufficiently attractive to make itself acceptable to debtor classes, in spite of their child-like simplicity, as a source of amusement. Consequently, during the sittings of the Select Committee we had to make many attempts—some successful, others unsuccessful—to make certain amendments. We considered these amendments essential if the Bill was to fulfil the object with which it was avowedly undertaken. As a result of our efforts we have been able to make several important amendments in the Bill as it was originally introduced. We, therefore, consider it necessary to append a note which will explain, in general, the back-ground of our efforts.

The crushing burden of debt under which certain classes of our province have been groaning is simply stupendous. Even at a modest estimate it may be placed at 200 crores. At the rate of 15 per cent. the amount of annual interest on our debt liabilities will be 30 crores. Even the champions of money-lenders now press the view that the burden of land revenue is too heavy to be borne by the land-owning classes under the present conditions, and should be reduced by 50 per cent. The average burden of annual land revenue proper is roughly three crores. If the burden of land revenue is too heavy to be borne the burden of interest alone on our debt obligations is obviously ten times more heavy. Moreover, the present slump has brought down the prices of agricultural produce approximately to a third of their dimensions in the boom period. This means that in the terms of produce the value of debts has appreciated three times. A stronger case for immediate and substantial relief can hardly be conceived.

From the attitude adopted by our colleagues representing money-lending interests it appears that they have not realised even partially the appalling extent of the poverty, wretchedness and economic helplessness which have established their sway in the country-side. Even the official members seem to have realised but imperfectly the urgent need of some legislation to rescue the debtor classes from their present pitiable plight. We who are not accus-

*Subject to a note of dissent.

†Subject to my right to move any amendment in the Council.

tomed to the constant sights of plenty and prosperity such as are to be found in Lahore, Simla, Amritsar and Rawalpindi are in a better position to judge the actual conditions which prevail in the province. We desire earnestly to impress upon all concerned that if effective steps are not taken to afford relief to debtor classes the peace of the province will be endangered. The execution of decrees will in future involve the sale of judgment-debtors' houses, plough cattle and agricultural produce on a large scale and almost as a normal feature. To a lesser extent, but still in an undesirably large number of cases, recourse will be had to the arrest of the bread-earner of the family, to the temporary alienation of the whole holding of a judgment-debtor for long periods, and even to the attachment of the property belonging to the friends and relations of the judgment-debtor in order to exert the maximum pressure for recovery. The prospects of being rendered homeless, landless and deprived of the means or chances of earning an honest livelihood will place too great a strain on human nature to respect the sanctions of law. We sincerely fear that if the insistence of money-lending interests on their pound of flesh under the bond is allowed to stand in the way of a legislation securing all necessary relief to the debtor classes, peace and security of life and property will have to face a very serious menace. The harshness of the methods of recovery which we advise to be abolished and which our urban colleagues desire to be maintained is a creation of the British administration. In pre-British days the arrest of a judgment-debtor and the sale of his land, or house or bullocks were practically unknown. Moreover, the need of the good-will and sympathy of his clientele to the *Sahukar* in troubled times acted as a very strong and effective sanction against rapacity or undue harshness on his part. Writing in the December (1927) issue of "London Foreign Affairs" Sir John Maynard observes that "the exactions of the usurer were limited by the dangers of popular justice." This is, in fact, the same idea in a different garb. Thus the amendments which we have urged are no more than a plea for a reversion to the practice of pre-British days or the abolition of the advantages which the *Sahukar* has obtained owing to the introduction of a more "civilised" system of law than is good for a society not sufficiently advanced for the application of British notions of law, equity and contractual obligations.

In suggesting and pressing our amendments what we have kept in view is that the debtor should be allowed to remain a free agent and an efficient worker in the pursuance of his avocation. If this condition is fulfilled we believe that he will make genuine efforts to repay as much of his debts as he possibly can. Perhaps the representatives of money-lenders on the Select Committee are not aware that debtors, in a spell of unexpected prosperity, have in the not remote past, undertaken to repay even those debts which had become time-barred.

Knowing as we do the exact economic condition in which the debtor classes find themselves at the present moment, we are convinced that these classes stand in need of immediate and substantial relief. Having assumed the need for such relief we have next to ascertain in what manner that relief can be given. We are of the opinion that this relief can take the following forms :—

- (a) reduction in interest ;
- (b) reduction in principal ;
- (c) exemption of the judgment-debtor from arrest ;
- (d) exemption from attachment of a certain class of property belonging to a debtor ; and
- (e) reduction in the period during which execution proceedings can be taken out.

We have tried to provide in our amendments suitable provisions guaranteeing all these forms of relief except (b).

We may now proceed to deal with specific amendments which we have been able to make or which we have failed to make in spite of our best efforts.

One of the sorest grievances with the critics of this Bill was that Government and zamindars had entered into an unholy alliance to benefit the Muslim at the expense of the Hindu and the zamindar at the expense of the non-zamindar. As soon as the Select Committee entered upon its business we made a definite suggestion that the supposed sting of this legislation being a pro-Muslim or a pro-zamindar measure be taken out and all the provisions of the Bill should be made applicable to all sections of the population, whether agricultural or non-agricultural, rural or urban. We were surprised to find that this suggestion was stoutly opposed by those of our colleagues who claim to represent money lending interests and the alliance, whether holy or unholy, seemed to have come into existence between the official members and the urban members of the Select Committee, because our official colleagues were just as keen and anxious to oppose this suggestion as our urban non-official colleagues on the Committee.

One of the complaints of those who represent the interests of debtor classes has been that the present complexion of our judiciary tends to make our officers, consciously or unconsciously, more favourably disposed to the creditor than to the debtor. As this complaint has been both loud and persistent, we considered it advisable to try to make the law as definite and precise as it was possible to make it. With this end in view, after our proposal to make this Bill a law of general application had failed, we proposed that the word 'agriculturist' should be so defined as to include (a) all the members of notified agricultural tribes; (b) all members of depressed classes among Hindus with all members of the classes corresponding to these Hindu classes among Muslims and Sikhs; and (c) all other persons earning their livelihood mainly by agriculture. This definition of the class of persons to which the Bill should be made applicable was strenuously opposed both by official members and the representatives of money-lending interests on the Select Committee, and as two of us happened to be absent in the initial stages of the Select Committee we were defeated in our attempts to make the law precise. As the definition of a debtor now stands everything has been left to the discretion of courts, and if our past experience can be any guide to the future we are extremely apprehensive that the law will be construed in such a manner that the object of this Bill will be entirely nullified. That our apprehensions are not unfounded will appear from the fact that the Usurious Loans Act of 1918 has been, both in the letter and in the spirit, a complete dead letter. A similar fate has so far fallen to the lot of the Regulation of Accounts Act.

When we came to part II of the Bill we tried to have such part of the property of a debtor as is under the present law exempt from attachment and sale in execution of a decree excluded from his assets. Our contention was that such property not being available for the liquidation of a statutory agriculturist's debt, should not be regarded as an item of his assets for the purposes of insolvency. We were again defeated in our attempt. The argument put forward by the other side was that such exclusion would be opposed to all notions of equity and to all fundamental principles of the law of insolvency. We are here reminded of the well-known saying that equity varies with the length of the chancellor's foot. Anyway whether equity does or does not vary according to the length of the chancellor's foot, it should certainly vary with fundamental changes in economic conditions. Similarly fundamental principles ought to be susceptible of change and flexibility to suit fundamental changes whether social, political or economic. Nothing can be half so fundamental as the need of keeping alive and efficient that portion of the population which is regarded as the very back-bone of the community. However, the combination of urban and official members voted down our amendments. Another amendment which we desired to make related to the method of valuation in respect of agricultural land. We contended that in order to make a simplified procedure of insolvency available to a larger number of persons and also to make the law precise, some definite standard in terms of land revenue should be adopted. We were unsuccessful again. As the proposed law now stands everything has been left to the discretion of courts, and it will not at all be difficult for them to nullify the present amendment of the insolvency law to a very large extent. Courts can adopt any method

of valuation in order to exclude deserving debtors from the benefit of the amendment contained in clause 4 of the present Bill. Again, in colony areas comparatively small land-holders will be deprived of the benefits of this amendment. If we estimate the value of a square of colony land at Rs. 250 per acre, an owner of more than 6 acres will be ruled out of court if clause 4 of the present Bill is allowed to stand as it is.

In our amendment of the Usurious Loans Act, also we have not succeeded to the extent to which we desired. We are all agreed that rates of simple interest higher than 15 per cent. should be regarded as excessive, and some of us think that even 15 per cent. on unsecured debts and 8 per cent. on secured debts are too high rates.

Coming to Part IV some of us entertain an apprehension that debt, as defined in clause 7, is considerably vague and indefinite, and there is a loophole for the debts of any *bona fide* debtor not being regarded as debts for the purposes of this part of the Bill.

Some of us would also like that the limit of debt in clause 8 should not be prescribed at all, while some others think that if this limit has to be fixed at all it should be fixed at a minimum of Rs. 25 thousand as in the Central Provinces.

Sub-clause 1 and sub-clause 3 of clause 17 of the Bill as amended in the first instance by the Select Committee seemed to us to be mutually destructive. Therefore, in order to eliminate the conflict that existed between sub-clause 1 and sub-clause 3, we agreed, rather reluctantly, to the present form of clause 17. We were unable on the spur of the moment, to think of a better device to obviate the conflict referred to above.

We were anxious to define the rule of 'Damdupat' in such a manner as to exclude the possibility of a court passing a decree for more than double the amount which was originally advanced. Two of us (Sardar Bahadur Sardar Buta Singh and Sardar Bishan Singh) feared that such a definition might compel a court to pass a decree for refund in favour of the debtor, and this fear on their part resulted in our defeat on this point.

Originally we drafted an amendment providing for the absolute exemption from arrest of a judgment-debtor in execution of a decree. We are still of the opinion that such an exemption would have been preferable. But in order to secure the goodwill and support of official members we agreed to incorporate the four provisos from (a) to (d) in the Bill as amended. But we reserve our right to move the deletion or modification of these provisos. We also proposed that order 21, rule 2 should be so amended as to penalise the decree-holder for his failure to certify any repayments made to him or any adjustments of his decree outside the court. We felt that it was both anomalous and illogical for the law to create an obligation to be discharged by a decree-holder and to cast a penalty on the debtor for failure of the creditor to discharge that obligation, and although we agreed to drop our own proposal and to agree to the official proposal of the omission of sub-section 3 of order 21, rule 2 we still feel that the amendment as it stands is lacking in logical perfection.

We also desired to exempt ancestral property in the hands of heirs from liability to attachment in execution of a decree. One of us (Sardar Bahadur Sardar Buta Singh) thought that the custom of the province being so clear on the point it was completely unnecessary to incorporate a provision to this effect in this Bill. The result was that this motion was lost by the casting vote of the Chairman.

In order to be able to sign this note before we disperse, we have had to write it in a great hurry.

CHHOTU RAM.
AKBAR ALL.
RIASAT ALL.
BUTA SINGH.
BISHAN SINGH.
MUHAMMAD HAYAT.
HABIB ULLAH,

III.

GENERAL.

We do not propose in this minute of dissent to note in any detail on the provisions of the Bill as existing originally or as modified in the Select Committee, for we think that the objectionable features of the Bill have been so intensified in the Select Committee that the Bill as it now stands is a wholly unjust and unwise measure. The most serious criticism against the Bill was that while reducing the amount of debt due, it not only made no provision for the payment of even these reduced debts, but actually made recovery of loans more difficult. The further obstacles introduced by the majority of the Select Committee in the way of recovery are tantamount to striking at the very basis of rural credit, making it impossible to realise even a fraction of just debts from people who are well able to pay. The proposed legislation may wipe out present debts, but it can furnish no solution of our agrarian financial problems.

At a very early stage of our deliberations it was made clear that Government could in no event undertake to be a party to the recovery of any debts finally determined under the various provisions of the Bill; and this made proposals on the lines existing in the Central Provinces legislation inadmissible.

The removal of the words "and the improvement of agrarian credit" from the Preamble is significant, because the position of the village money-lender already much weakened and deteriorated is likely to become impossible under this legislation, and agrarian credit except such as is conducted under conditions of special privilege and protection will tend to become extinct. To the premium (see Darling's Report of the Punjab Banking Enquiry Committee, paragraph 205) upon default and conditions favouring the bad borrower now existing, real legislative support will now be given, and no "improvement of agrarian credit" could be possible in these circumstances.

PART II.—INSOLVENCY PROCEDURE.

We shall content ourselves with saying that resort to summary administration in insolvency should be strictly limited to minor cases, and should not in any case be extended beyond the prescribed limit, particularly as there are difficulties in this Province in the availability of the debtor's estate. It has also to be remembered that the procedure even under existing narrow limits is resorted to not infrequently. There is also the further question whether the procedure should be given a wider scope in this Province than in the rest of India. Are there any special circumstances here not to be found elsewhere.

PART III.—USURIOUS LOANS.

The original proposals under this head were drastic enough, but the modifications adopted at the instance of the majority, strike at the root of all principles and all dictates of experience.

1. Compound interest, except in certain transactions, is declared excessive though (i) the system of compound interest has the sanction of time and embodies the practice of the most respectable credit institutions and (ii) legislative efforts to abolish it are likely to be evaded to the detriment of the debtor.

2. The rate of interest is reduced to 8 per cent. simple interest on secured debts.

(a) This is in direct disregard of the rates charged on good security even in the recent past, when money has been cheap, on good security by the best banks. In big towns rates charged on mortgages of house property by joint stock banks is usually 9 per cent. with half-yearly rests or over; the Central Co-operative Banks would in various districts have been charging a similar if not higher rate (they have themselves been paying on deposits 7 and 7½ per cent. within the past four years which of course could increase at a compound rate by annual accretion to the principal).

(b) This also ignores the fact pointed out by nearly every Banking Enquiry Committee in the country that there are good securities and bad (see in this connection paragraphs 47, 49, 53 and chapter XIV of Darling's Report). The majority has treated all secured debts alike as if all securities were equally good. This lack of discrimination completely vitiates the original proposals as well as the majority modification on the question of rates.

3. *The rate on unsecured debts ; reduction to 18½ per cent.*—It is unfair to prescribe a rigid limit, apart from the fact that it may be difficult to secure its observance. Any rigid limit means failure to realise the various factors which enter on the determination of the interest charged, — [vide paragraphs 48, 51, 53 (cultivator's personal security) of Darling's Report.]

4. The courts must deem 'compound interest' to be a substantially unfair transaction. (See our remarks already made on the subject of compound interest). The present modifications mean that a bargain that was fair when entered into as between the parties is by a provision of law now declared unfair, and this from the date when the contracting parties regarded it fair. Nothing could be more unjust and improper, and we feel that a Government that encourages or countenances such legislation would be laying the seeds of danger to public tranquility and weakening the foundation of secure polity. Even the Calvert Committee which included 3 zamindar members unanimously proposed much higher rate of interest, and definitely recommended that retrospective effect should not be given to the rates proposed.

5. It is to be remembered that the application of this part—Usurious Loans—is not confined to agriculturists for whose relief the legislation has been proposed, but is much wider in scope and affects contracts between people with open eyes and well able to take care of themselves, and entered upon as strict business.

6. Usury is not easy to define, and where efforts are made as here without any regard to existing facts as to security and the habits and ways of individual debtors and other circumstances to prescribe rigid rates, it means an attempt by legislation to secure results for which human experience furnishes no warrant.

PART IV.—DEBT CONCILIATION BOARDS.

The modifications introduced in this part at the instance of the majority alter the whole nature and purpose of the proposed legislation. With the provisions made under Part IV, with those elsewhere, it can no longer be said that the balance is held fairly between the debtor and creditor or the whole system of rural credit will not be seriously impaired. We shall refer only to the main provisions and modifications :—

1. *Clause 7 (1)—Exclusion of debts due to co-operative banks or to commercial banks.*—The wisdom of excluding co-operative banks is open to question, particularly as the directors of these banks are themselves of the borrowing class. These banks require no special protection, particularly if, as is represented, their dealings are of a character that show the utmost consideration for the borrowers. If that be so, why should there be any fear that as a result of the action of Conciliation Boards, they may come to grief.

As regards commercial banks, we had not before us the opinion of any of the banks. It is a matter of such vital moment that their opinion should have been obtained.

2. *The definition of debtor.*—This definition is too wide, and includes agriculturists for whose relief the proposed legislation could not or should not have been intended, for example, classes such as are referred to by the Northern India Chamber of Commerce (second supplementary Book of opinions at page 9) should certainly be excluded.

3. *Clause 8 (3)—Limit of Rs. 10,000 or such large amount as the Local Government may prescribe for any area.*—(a) The minimum limit is too high and in our view far beyond the nature of debt for which relief is required. (b) The Conciliation Boards from whose decisions there is to be no appeal, are

to be clothed with powers exercised only by Sub-Judges of the 1st class now, and, where appeal is at present possible, right up to the Privy Council.

4. *Omission of the proviso to clause 12 (1).*—This omission is obviously unfair. A creditor is being shut out even on good cause being shown to have the period of submitting his statement of debt extended.

5. *Clause 17 (original clause 16).*—The modification introduced by the majority, *viz.*, in place of 60 per cent. "all or any of the creditors" is in our view fatal to the whole idea of "conciliation". It would be open, under the modified provision, for a single creditor to affect the rights of other creditors. A single creditor may act through collusion, ignorance, spite or any of the thousand after-springs of action, and yet he is to furnish the test for the application of the rigorous provisions of this Part IV. This is unheard of legislative compulsion described as conciliation. In the Central Provinces, the agreement of amicable settlement must be accepted by creditors to whom not less than forty per cent. of the total amount of the debtor's debts are owing, and in the opinion submitted on the Bill, several authorities (including the Northern India Chamber of Commerce) have emphasized the need of raising the 60 per cent. to 75 per cent. and at least one official would have the whole body of creditors agreed to a settlement. Whatever the proportion of creditors, who must agree, it is obvious that the proportion should be substantial, and it should not be open under the guise and name of conciliation for one creditor to affect the rights and positions of other creditors.

6. In original clause 18, now clause 19, it is a matter for serious consideration whether the term "fair offer" should not receive a legislative definition, considering that the discretion of these Boards, not likely to be constituted largely of trained judicial officers, is already so extensive and not liable to be corrected by any higher tribunal.

7. If new clause 19 (3), old clause 18 (3), stands with the modification of 60 per cent to a possible single creditor in new clause 17, the danger of the wholly unwarranted postponement of the claims of the mass of creditors is obvious. We fail to see how any Government could permit such trampling upon the rights of a large body of creditors.

8. *Bar of an appeal or revision.*—This is too drastic a bar considering the extent of the jurisdiction of the Boards, their large discretion and the likely character of their constitution. We invite in this connection attention to important opinion such as that of the Northern India Chamber of Commerce, and several high executive and judicial officers.

PART V.—DAMDUPAT.

If this principle borrowed from Hindu jurisprudence, is adopted, it should be subject to the well defined limitations under which it is applicable there.

PART VIII.

The majority has here introduced modifications on the existing all-India laws, the net effect of which is to place serious obstacles in the way of recovery of debts, and thereby affect the credit of all classes most prejudicially. We see nothing in the particular exigencies of this Province to warrant these modifications of the general law. If the Punjab Government feel that the law of Civil Procedure and Limitation should be changed in the directions desired by the majority, the proper course is to convince the Government of India in this regard, and have the relative laws amended. The Punjab furnishes no peculiar problems and requires no special remedies; whatever the problems, they are the same all over India.

We do not support the changes introduced in :—

(1) the law of arrest.

Here apart from the general considerations stated above, see the weighty opinions of the Northern India Chamber of Commerce and various judicial officers on old clauses 27 and 28. Apart from the other highly objectionable features of this change the explanation relating to "paying capacity" would practically exempt all members of the notified agricultural tribes from arrest for debts incurred long before, this change in the law is made. This is clearly an exten-

sion of the principles of the Land Alienation Act in favour of agricultural tribes and against the creditors who had advanced money on the assurance that in determining "paying capacity" agricultural land would be considered as an asset.

- (2) the definition of building as contained in S. 60, C. P. Code. 'Occupation' furnishes the only proper test for exclusion ;
- (3) the amendment of order XXI, rule 2, of C. P. Code as contained in new clause 35 ;
- (4) new clause 36, by reducing the period of limitation for execution of decrees from twelve years to six years ;
- (5) to the new clause 37, which would result in two courts of different jurisdictions executing the same decree at one and the same time ;
- (6) new clause 38 affecting the burden of proof.

This is contrary to all principles of jurisprudence as repeatedly laid down by the High Courts and by the Privy Council.

Drastic changes were made on the last day in various statutes, some of them applicable to the whole of India of which no previous notice had been given to us. The changes which are embodied in Part VIII needed very careful consideration.

CONCLUSION.

We have not referred to any minor provisions or modifications in the Select Committee. In our opinion the whole Bill has been so altered in its scope and character that public opinion should again be invited on the modified Bill.

The provisions of the Bill are of such complicated nature and its effects certain to be of so wide-reaching and serious a nature that we reserve to ourselves the fullest freedom at the council stage when the Bill is to be taken into consideration.

We may be permitted to add that while the present measure is likely to impair rural credit seriously, if not to destroy it very largely, it does not touch even the fringe of the important question of rural betterment in the Punjab.

MANOHAR LAL.

MUKAND LAL, PUBL.

NARENDRA NATH.

26th September 1934.

Annexure to the Report.

[Bill as introduced in the Council on
the 20th March 1934.]

Bill No. 17 of 1934.

The Punjab Relief of Indebtedness Bill.

A Bill to provide for the relief of
indebtedness and the improvement
of agrarian credit in the Punjab.

WHEREAS it is expedient to amend the
law relating to relations between debtors and
creditors ;

And whereas the previous sanction of the
Governor-General required under section 80-A
(8) of the Government of India Act and the
previous sanction of the Governor required
under section 80-C of the said Act have been
obtained ;

It is hereby enacted as follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be called the Punjab
Relief of Indebtedness Act,
Short title, extent
and commencement. 193 .

(2) This Part and Parts III, IV, V, VI and
VII shall extend to the whole of the Punjab
and Part II to such areas as the Local Gov-
ernment may from time to time, by notifica-
tion, direct.

(3) This Act shall come into force on such
date as the Local Government may, by
notification, appoint in this behalf.

2. In this Act, unless there is anything
repugnant in the subject or context—

(1) "Agriculturist" means—

(a) a landowner who earns his livelihood
from agriculture either with
his own hands or by his ser-
vants or tenants, or

(b) a tenant or servant of a landowner
as defined in clause (a).

Explanation :—

(i) An agriculturist who, temporarily
ceases to earn his livelihood as
such or is prevented from so doing
by reason of age or bodily in-
firmity or by reason of his em-
ployment in the military or naval
service of His Majesty, does not
by such cessation, inability or em-
ployment lose his status as an
agriculturist.

(ii) A village menial living outside the
limit of any municipality, noti-
fied area, or small town, and
paid in cash or in kind for work
connected with agriculture shall
be deemed an agriculturist within
this definition.

(3) "Interest" means rate of interest and
includes the return to be made
over and above what was actually
lent whether the same is charged
or sought to be recovered specifi-
cally by way of interest or other-
wise.

[Bill as modified by the Select Committee.]

[The amendments are shown in italics.]

The Punjab Relief of Indebtedness Bill.

A Bill to provide for the Relief of Indebted-
ness in the Punjab.

WHEREAS it is expedient to amend the law
relating to relations between debtors and
creditors ;

And whereas the previous sanction of the
Governor-General required under section 80-A
(3) of the Government of India Act and the
previous sanction of the Governor required
under section 80-C of the said Act have been
obtained ;

It is hereby enacted as follows :—

PART I.

PRELIMINARY.

1. (1) This Act may be called the Punjab
Relief of Indebtedness Act,
Short title, extent
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by notification, direct.

(3) This Act shall come into force on such
date as the Local Government may, by
notification, appoint in this behalf.

2. In this Act, unless there is anything
repugnant in the subject or
context.—

Interpretation
clause.

(1) "Interest" means rate of interest
and includes the return to be
made over and above what was
actually lent whether the same is
charged or sought to be reco-
vered specifically by way of
interest or otherwise ;

- (3) "Loan" means a loan whether of money or in kind and includes any transaction which is in the opinion of the Court in substance a loan.

PART II.

INSOLVENCY PROCEDURE.

3. In clause (a) of sub-section (1) of section 10 of the Provincial Insolvency Act, 1920 (hereinafter referred to as the said Act), for the words "five hundred rupees" the words "two hundred and fifty rupees" shall be substituted.

V of 1920.

Amendment of section 10 of the Provincial Insolvency Act, 1920.

4. In section 74 of the said Act, for the words "five hundred rupees" the words "one thousand rupees" shall be substituted.

Amendment of section 74 of the Provincial Insolvency Act, 1920.

PART III.

USURIOUS LOANS.

5. In section 8 of the Usurious Loans Act, 1918—

V of 1918.

Amendment of the Usurious Loans Act, 1918.

- (i) for the word "and" in clause (a) of sub-section (1) the word "or" shall be substituted;
- (ii) for the word "may" after the word "court" in clause (b) of the same sub-section, the word "shall" shall be substituted;
- (iii) for the word "may" after the word "namely" in clause (b) of the same sub-section, the word "shall" shall be substituted;
- (iv) to clause (a) of sub-section (2) the following proviso shall be added, namely:—

"Provided that the court shall not deem interest to be excessive, if on loans advanced on the security of immovable property or pledge of movable property, it does not exceed 8 per cent. compound interest with annual rests or 10 per cent. simple interest, and, if on other loans, it does not exceed 10 per cent. compound interest with annual rests or 15 per cent. simple interest:

Provided further, that the court shall deem interest to be excessive if, on loans advanced on the security of immovable property or pledge of movable property, it exceeds 12 per cent. compound interest with annual rests or 15 per cent. simple interest, and, if on other loans, it

- (2) "Loan" means a loan whether of money or in kind and includes any transaction which is in the opinion of the Court in substance a loan.

PART II.

INSOLVENCY PROCEDURE.

3. In section 10 (1) insert after the existing clause (a) the following:—

Amendment of section 10 of the Provincial Insolvency Act, 1920.

V of 1920.

"(aa) his debts amount to two hundred and fifty rupees and he satisfies the court that he is entitled to summary administration of his estate under Part V of the Act."

4. In section 74 of the said Act, for the words "five hundred rupees" the words "fifteen hundred rupees" shall be substituted.

Amendment of section 74 of the Provincial Insolvency Act, 1920.

PART III.

USURIOUS LOANS.

5. In section 8 of the Usurious Loans Act, 1918:—

Amendment of the Usurious Loans Act, 1918.

X of 1918.

- (i) for the word "and" in clause (a) of sub-section (1) the word "or" shall be substituted;
- (ii) for the word "may" after the word "court" in clause (b) of the same sub-section, the word "shall" shall be substituted;
- (iii) for the word "may" after the word "namely" in clause (b) of the same sub-section, the word "shall" shall be substituted.
- (iv) to clause (a) of sub-section (2) the following words shall be added:—

(1) The court shall deem all compound interest to be excessive except in the following transactions:—

(a) a deposit of money or other property in a Government Post Office Bank or any other Bank

or in a company or with a co-operative society;

(b) a loan to or by a deposit with any society or association registered under the Societies Registration Act, 1860, or under any other enactment;

(c) a loan advanced by Government or by any local body authorised by Government;

(d) a loan advanced by a bank, a co-operative society or a

exceeds 18 per cent. compound interest with annual rests or 24 per cent. simple interest,"

company whose accounts are subject to audit by a certificated auditor under the Companies Act ;

- (e) a loan advanced to a trader ;
- (f) an advance made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1881, other than a promissory note ;
- (g) a transaction which is, in substance, a mortgage or a sale of immovable property by any person other than a debtor as defined in section 7 of the Punjab Relief of Indebtedness Act.

(2) The court shall deem interest to be excessive if on loans advanced on the security of immovable property or pledge of movable property it exceeds 8 per cent. simple interest and if on other loans it exceeds 18½ simple interest.

(3) Except in the case of transactions mentioned in sub-clause (1) (a) to (g) every loan carrying compound interest shall be deemed to be a substantially unfair transaction.

6. The provisions of this part of the Act shall apply to all suits pending on or instituted after the commencement of this Act.

PART IV.

PART IV.

DEBT CONCILIATION BOARDS.

6. (1) "Debt" includes all liabilities of an agriculturist in cash or in kind, secured or unsecured, payable under a decree or order of a civil court or otherwise whether mature or not, but shall not include trading debts, arrears of wages, land revenue or anything recoverable as an arrear of land revenue.

(2) "Debtor" means an agriculturist whose debt amounts to a sum prescribed by the Local Government for the area in which he resides.

Interpretation clause (definitions).

DEBT CONCILIATION BOARDS.

7. (1) "Debt" includes all liabilities of a debtor in cash or in kind secured or unsecured, payable under a decree or order of a civil court or otherwise, whether mature or not, but shall not include debts incurred for the purposes of trade, arrears of wages, land revenue or anything recoverable as an arrear of land revenue, or any debt which is barred by the law of limitation, or debts due to co-operative banks and societies or to commercial banks.

(2) (a) "Debtor" means a person who owes a debt or debts and

(i) who both earns his livelihood mainly by agriculture and is either a landowner, or tenant or a servant of a landowner or tenant, or

(ii) who earns his livelihood as a village menial paid in cash or kind for work connected with agriculture.

Explanations—

(i) a debtor shall not lose his status as such through involuntary unemployment or on account of incapacity temporary or permanent, by bodily infirmity, or if

(3) "Prescribed" means prescribed by rules made under this part of the Act.

7. (1) The Local Government may, for the purposes of amicable settlement between agriculturist debtors and their creditors, establish a Debt Conciliation Board for any area in the Punjab.

(2) Such Board shall consist of a chairman and two or more members to be appointed by the Local Government, which may, for reasons to be recorded in writing, cancel the appointment of any member or dissolve any Board.

(3) The chairman and every member of a Board so established shall be appointed for a term not exceeding three years, but shall be eligible for re-appointment on the expiry of his term.

(4) The quorum of a Board shall be prescribed by the Local Government.

(5) Where the chairman and members of a Board are not unanimous, the opinion of the majority shall prevail, and if the Board is equally divided, the chairman shall exercise a casting vote.

8. A debtor or any of his creditors may apply to the Board appointed for the area in which a debtor resides or holds any land, to effect a settlement between the debtor and his creditors.

he joins the military or naval service of His Majesty.

If any question arises whether or not a person is a debtor, the decision of a Debt Conciliation Board shall be final.

(ii) A debtor shall not lose his status as such by reason of the fact that he makes income by using his plough cattle for purposes of transport.

(iii) A debtor shall not lose his status as such only because he does not cultivate with his own hands.

(3) "Agriculture" shall include horticulture and the use of land for any purpose of husbandry, inclusive of the keeping or breeding of live stock, poultry, or bees, and the growth of fruit, vegetables and the like.

(4) "Prescribed" means prescribed by rules made under this part of the Act.

8. (1) The Local Government may for the purpose of amicable settlement between debtors and their creditors establish Debt Conciliation Boards.

(2) The Local Government shall define the local limits of the area in which any Board shall have jurisdiction.

(3) The Local Government shall determine the pecuniary limits of the jurisdiction of the Board, provided that no Board shall have jurisdiction to make a settlement between a debtor and his creditors if the total debts of the debtor exceed Rs. 10,000 or such larger amount as the Local Government may prescribe for any area.

(4) Such Board shall consist of a chairman and two or more members to be appointed by the Local Government which may, for reasons to be recorded in writing, cancel the appointment of any member or dissolve any Board.

(5) The Chairman and every member of a Board so established shall be appointed for a term not exceeding three years, but shall be eligible for re-appointment on the expiry of his term.

(6) The quorum of a Board shall be prescribed by the Local Government.

(7) Where the chairman and members of a Board are not unanimous, the opinion of the majority shall prevail, and if the Board is equally divided, the chairman shall exercise a casting vote.

9. A debtor or any of his creditors may apply to the Board appointed for the area in which a debtor resides or holds any land, to effect a settlement between the debtor and his creditors.

Provided that no application shall be made if the debtor's debts exceed ten thousand rupees or such larger sum as the local Government may prescribe for any particular area.

9. Every application to a Board shall be in writing and be signed by the applicant.

Verification of application.

10. (1) Every application presented by a debtor to a Board shall contain the following particulars, namely,—

Particulars to be stated in application.

- (a) a statement that he owes the prescribed amount of debts ;
- (b) the place where he resides or holds his land ;
- (c) the particulars of all claims against him, together with the names and residences of his creditors ;
- (d) the particulars of all his property, together with a specification of the value of such property and the place or places at which any such property is to be found ;
- (e) a statement that he is unable to pay his debts.

(2) Every application presented by a creditor shall contain the following particulars, namely,—

- (a) the place where the debtor resides or holds his land ;
- (b) the amount or particulars of his claim against such debtor ;
- (c) a statement that the debtor owes the prescribed amount of debts ;
- (d) a statement that the debtor is unable to pay his debts.

11. (1) On receipt of an application under section 8, the Board shall pass an order fixing a date and place for hearing the application :

Procedure on receipt of application.

Provided that the Board may at any time dismiss the application if, for reasons to be stated in writing, it does not consider it desirable to attempt to effect a settlement between the debtor and his creditors.

(2) Notice of the order under sub-section (1) shall be sent to creditors by registered post, and, where the debtor is not the applicant notice of the order under sub-section (1) shall be sent to him in a similar manner.

12. (1) If, after examining the debtor the Board is of opinion that it is desirable to effect a settlement between him and his creditors it shall publish, in such manner as may be prescribed, a notice, calling upon every creditor of the debtor to submit a statement of debts owed to such creditor by the debtor. Such statement shall be submitted to the Board in writing within two months from the date of publication of the notice :

Notice calling upon creditors to submit statements of debts.

Provided that, if the Board is satisfied that any creditor was, for good and sufficient cause, unable to comply with such directions

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10. Every application to a Board shall be in writing and be signed by the applicant and verified in such manner as may be prescribed.

Verification of application.

11. (1) Every application presented by a debtor to a Board shall contain the following particulars, namely,—

Particulars to be stated in application.

- (a) the place where he resides or holds land ;
- (b) the particulars of all claims against him together with the names and residences of his creditors ;
- (c) the particulars of all his property, together with a specification of the value of such property and the place or places at which any such property is to be found ;
- (d) a statement that he is unable to pay his debts, and that they do not exceed ten thousand rupees or the prescribed amount.

(2) Every application presented by a creditor shall contain the following particulars, namely,—

- (a) the place where the debtor resides or holds land ;
- (b) the amount or particulars of his claim against such debtor ;
- (c) a statement that the debtor owes not more than ten thousand rupees or the prescribed amount ;
- (d) a statement that the debtor is unable to pay his debts.

12. (1) On receipt of an application under section 9, the Board shall pass an order fixing a date and place for hearing the application.

Procedure on receipt of application.

(2) Notice of the order under sub-section (1) shall be sent to creditors by registered post with acknowledgment due, and where the debtor is not the applicant, notice of the order under sub-section (1) shall be sent to him in a similar manner.

13. (1) On the date fixed the Board shall publish, in such manner as may be prescribed, a notice, calling upon every creditor of the debtor to submit a statement of debts owed to such creditor by the debtor. Such statement shall be submitted to the Board in writing within two months from the date of publication of the notice :

Notice calling upon creditors to submit statements of debts.

Provided that, if the Board is satisfied that any creditor was, for good and sufficient cause, unable to comply with such directions within the time fixed, it may extend the

within the time fixed, it may extend the period for the submission of his statement of the debts owed to him.

(2) Every debt, of which a statement is not submitted to the Board in compliance with the provisions of sub-section (1) shall be deemed for all purposes and all occasions to have been duly discharged.

13. (1) Every creditor submitting in compliance with a notice issued under sub-section (1) of section 12 a statement of the debts owed to him shall furnish, along with such statement, full particulars of all such debts, and shall at the same time produce all documents (including entries in books of account) on which he relies to support his claims, together with a true copy of every such document.

Procedure on submission of statements of debts.

(2) The Board shall, after marking for the purpose of identification every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the creditor.

14. The Board shall call upon the debtor and each creditor to explain his case regarding each debt, and shall use its best endeavours to induce them to arrive at an amicable settlement.

Board to attempt amicable settlement.

15. Any Board empowered under this Act may exercise all such powers connected with the summoning and examining of parties and witnesses and with the production of documents as are conferred on civil courts by the Code of Civil Procedure, and every proceeding before the Board shall be deemed a judicial proceeding.

Power of Board to require attendance of persons and production of documents and to receive evidence.

16. (1) If the debtor and creditors to whom not less than sixty per cent. of the total amount of the debtor's debts are due come to an amicable settlement, the Board shall forthwith reduce such settlement to writing in the form of an agreement setting forth the amounts payable to each creditor and the manner in which and the times at which they are to be paid. Such agreement shall be read out and explained to the parties concerned, and shall be signed

Agreement of amicable settlement, its registration and effect.

period for the submission of his statement of the debts owed to him.

(2) Every debt, of which a statement is not submitted to the Board in compliance with the provisions of sub-section (1), shall be deemed for all purposes and all occasions to have been duly discharged :

Provided that if a creditor proves to the satisfaction of the Board, or, if the Board has ceased to exist, to the satisfaction of a civil court, that the notice was not served on him and that he had no knowledge of its publication, the Board or court may revive the debt.

14. (1) Every creditor submitting in compliance with a notice issued under sub-section (1) of section 13 a statement of the debts owed to him shall furnish, along with such statement, full particulars of all such debts, and shall at the same time produce all documents (including entries in books of account) on which he relies to support his claims, together with a true copy of every such document.

Procedure on submission of statements of debts.

Provided that a decree or order of a civil court shall be conclusive evidence as to the amount of the debt to which the decree relates, but the amount may be reduced as the result of an agreement arrived at in accordance with sections 17 and 19.

(2) The Board shall, after marking for the purpose of identification every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the creditor.

15. The Board shall call upon the debtor and each creditor to explain his case regarding each debt, and shall use its best endeavours to induce them to arrive at an amicable settlement.

Board to attempt amicable settlement.

16. Any Board empowered under this Act may exercise all such powers connected with the summoning and examining of parties and witnesses and with the production of documents as are conferred on civil courts by the Code of Civil Procedure, and every proceeding before the Board shall be deemed a judicial proceeding.

Power of Board to require attendance of persons and production of documents and to receive evidence.

17. (1) If the debtor and all or any of the creditors come to an amicable settlement, the Board shall forthwith reduce such settlement to writing in the form of an agreement setting forth the amounts payable to each creditor and the manner in which and the times at which they are to be paid. Such agreement shall be read out and explained to the parties concerned, and shall be signed or otherwise authenticated by the Board and the parties.

Provided that if the Board is unanimously of

or otherwise authenticated by the Board and the parties.

(2) An agreement thus made shall within seven days from the date of its authentication be registered under the Indian Registration Act, 1908, by the Chairman of the Board in such manner as may be prescribed, and it shall then take effect as if it were a decree of a civil court.

XVII of 1918.

17. If no amicable settlement is arrived at under sub-section (1) of section 16, the Board shall dismiss the application.

Power of Board to dismiss application.

18. (1) Where, during the hearing of any application made under section 8, any creditor refuses to agree to an amicable settlement, the Board may, if it is of opinion that the debtor has made such creditor a fair offer which the creditor ought reasonably to accept, grant the debtor a certificate, in such form as may be prescribed, in respect of the debts owed by him to such creditor.

Grant of certificate by Board in respect of debts.

(2) Where any creditor sues in a civil court for the recovery of a debt in respect of which a certificate has been granted under sub-section (1), the court shall, notwithstanding the provisions of any law for the time being in force, not allow the plaintiff any costs in such suit, or any interest on the debt after the date of registration under section 16 or certification under sub-section (1) in excess of simple interest at six per cent. per annum on the amount due on the date of such certificate.

Power of Court to disallow costs or interest.

(3) Where, after the registration of an agreement under sub-section (2) of section 16 or certification any unsecured creditor sues for the recovery of a debt in respect of which a certificate has been granted under sub-section (1) or any creditor sues for the recovery of a debt incurred after the date of such registration any decree passed in such suit shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, not be executed until all amounts recorded as payable under such agreement have been paid.

V of 1908

19. No civil court shall entertain —

Bar of civil suits.

(a) any suit —

- (i) to question the validity of any procedure or the legality of any agreement made under this Act, or
- (ii) to recover any debt recorded as wholly or partly payable under an agreement registered under sub-section (2) of sec-

the opinion that the period fixed for payment is excessive, the Board may refuse to authenticate the agreement. The Board shall also pass an order dismissing the application so far as it relates to the creditors who have not come to an amicable settlement.

(2) An agreement thus made shall take effect as if it were a decree of a civil court having jurisdiction in the area.

18. If in the opinion of the Board any applicant fails to conduct his application with due diligence, the Board may dismiss the application at any stage.

Dismissal of applications in default.

19. (1) Where, during the hearing of any application made under section 9, any creditor refuses to agree to an amicable settlement, the Board may, if it is of opinion that the debtor has made such creditor a fair offer which the creditor ought reasonably to accept, grant the debtor a certificate, in such form as may be prescribed, in respect of the debts owed by him to such creditor.

Grant of certificate by Board in respect of debts.

(2) Where any creditor sues in a civil court for the recovery of a debt in respect of which a certificate has been granted under sub-section (1), the court shall, notwithstanding the provisions of any law for the time being in force, not allow the plaintiff any costs in such suit, or any interest on the debt after the date of certification under sub-section (1) in excess of simple interest at six per cent. per annum on the amount due on the date of such certificate.

Power of Court to disallow costs of interest.

(3) Where after the date of an agreement made in accordance with section 17 or certification any unsecured creditor sues for the recovery of a debt in respect of which a certificate has been granted under sub-section (1) or any creditor sues for the recovery of a debt incurred after the date of such agreement, any decree passed in such suit shall, notwithstanding anything contained in the Code of Civil Procedure, 1908, not be executed until six months after the expiry of the period fixed in the agreement authenticated under sub-section (1) of section 17.

20. No civil court shall entertain —

Bar of civil suits.

(a) any suit —

- (i) to question the validity of any procedure or the legality of any agreement made under this Act, or
- (ii) to recover any debt recorded as wholly or partly payable under an agreement made in accordance with section 17 from any

tion 16 from any person who, as a debtor, was party to such agreement, or

(iii) to recover any debt which has been deemed to have been duly discharged under sub-section (2) of section 18 ;

(b) any application to execute a decree, the execution of which is suspended under sub-section (3) of section 19.

20. No appeal or application for revision shall lie against any order passed by a Board.

Bar of appeal for revision.

21. A Board may, on the application from any person interested, review any order passed by it and pass such order in reference thereto as it thinks fit :

Power of Board to review its order.

Provided that no order shall be reversed unless notice has been given to the persons interested to appear and be heard in support of such order.

22. In any proceedings under this Part of the Act any party may with the permission of the Board be represented by an agent authorised in writing, but not by a legal practitioner.

Appearance of party before Board by agent, but not by legal practitioner.

23. When an application has been made to a Board under section 8, any suit or other proceedings then pending before a civil court in respect of any debt for the settlement of which application has been made shall be suspended until the Board has dismissed the application or an agreement has been registered under sub-section (2) of section 16.

Suspension of pending application or suit.

24. The members of a Board shall be deemed to be public servants within the meaning of the Indian Penal Code.

Members of Boards deemed to be public servants.

25. The local Government may make any rules consistent with this Act to carry out the purposes thereof, and in particular and without prejudice to the generality of the foregoing power may make rules—

Power to make rules.

(a) prescribing the amount of debt for the purposes of section 6 (2) ;

person who, as a debtor, was party to such agreement, or
(iii) to recover any debt which has been deemed to have been duly discharged under sub-section (2) of section 18 :

(b) any application to execute a decree, the execution of which is suspended under sub-section (3) of section 19.

21. No appeal or application for revision shall lie against any order passed by a Board.

Bar of appeal or revision.

22. A Board may, on the application from any person interested, review any order passed by it and pass such order as it thinks fit :

Power of Board to review its order.

Provided that it shall not under this section pass an order reversing or modifying any order affecting any person interested without giving such person an opportunity of being heard.

23. In any proceedings under this part of the Act, any party may with the permission of the Board be represented by an agent authorised in writing or by a legal practitioner.

Appearance of party before Board by agent or by legal practitioner.

24. When an application has been made to a Board under section 8, no Civil Court shall entertain any new suit or other proceeding brought for the recovery of any debt for the settlement of which application has been made to the Board, and any suit or other proceeding pending before a Civil Court in respect of any such debt shall be suspended until the Board has dismissed the application or an agreement has been made under section 17.

Bar to new suits and applications and suspension of pending suits and applications.

25. The time spent in proceedings before a Conciliation Board and the time during which a person is debarred from suing or executing his decree under the provisions of Part IV shall be excluded when counting the period of limitation for any suit or application.

Extension of limitation.

26. The members of a Board shall be deemed to be public servants within the meaning of the Indian Penal Code.

Members of Boards deemed to be public servants.

27. (1) The local Government may make any rules consistent with this part of the Act to carry out the purposes thereof, and in particular and without prejudice to the generality of the foregoing power may make rules—

Power to make rules.

(a) prescribing the amount of debt for the purposes of section 8 (3) ;

- (b) prescribing the quorum for and regulating the procedure before a Board;
- (c) prescribing the charges to be made by a Board for anything done under this Act and the persons by whom and the manner in which such charges shall be paid;
- (d) prescribing the records to be kept and the returns to be made by a Board;
- (e) prescribing the allowances to be paid to members of a Board;
- (f) prescribing the place at which and the manner in which an agreement shall be registered under sub-section (2) of section 18;
- (g) prescribing the form of certificate to be granted under sub-section (1) of section 18; and
- (h) generally, for the purpose of carrying into effect the provisions of this Act.

26. In making any rule the local Government may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees, and, where the breach is a continuing one, with further fine which may extend to ten rupees for every day after the first during which the breach continues.

PART V.

WARRANT OF ARREST.

27. In Order 21, Rule 37 (1), of the Code of Civil Procedure for the word "may" after the words "the court" and before the words "instead of issuing a warrant for his arrest" the word "shall" shall be substituted.

28. In Order 21, Rule 40 (2), of the Code of Civil Procedure for the word "may" between the words "the court" and the words "take into consideration" the word "shall" shall be substituted.

PART VI.

DAMDUPAT.

29. (1) In any suit brought, after the commencement of this Act, against an agriculturist for the recovery of a loan borrowed before the commencement of this Act, no court shall grant a decree in satisfaction both of principal and interest for a larger sum than twice the amount which the Court finds to have been due at the commencement of this Act.

- (b) prescribing the quorum for and regulating the procedure before a Board;
- (c) prescribing the charges to be made by a Board for anything done under this Act and the persons by whom and the manner in which such charges shall be paid;
- (d) prescribing the records to be kept and the returns to be made by a Board;
- (e) prescribing the allowances to be paid to members of a Board;
- (f) prescribing the place at which and the manner in which an agreement shall be registered;
- (g) prescribing the form of certificate to be granted under sub-section (1) of section 19; and
- (h) generally, for the purpose of carrying into effect the provisions of this part of the Act.

(2) The power conferred by this section of making rules is subject to condition that the rules be made after previous publication.

28. In making any rule the Local Government may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees, and, where the breach is a continuing one, with further fine which may extend to ten rupees for every day after the first during which the breach continues.

PART V.

DAMDUPAT.

29. (1) In any suit brought, after the commencement of this Act, against a debtor as defined in section 7 for the recovery of a loan borrowed before the commencement of this Act, no court shall grant a decree in satisfaction both of principal and interest for a larger sum than twice the amount which the Court finds to have been due at the commencement of this Act.

(2) In any suit brought against an agriculturist for the recovery of a loan borrowed after the commencement of this Act, no court shall pass a decree for a larger sum than twice the amount of the sum taken as principal.

(3) Notwithstanding anything to the contrary in this Act, a court may grant a decree to a Bank against an agriculturist for any sum found due.

PART VII.

DEPOSIT IN COURT.

30. (1) An agriculturist debtor may, at any time, deposit in court a sum of money in full or part payment of his debt for payment to his creditor.

(2) The court on receipt of such deposit shall give notice thereof to the creditor and shall, on his application, pay the sum to him.

(3) From the date of such deposit interest shall cease to run on the sum so deposited.

31. (1) The Local Government may make rules for carrying into effect the provisions of this part of the Act.

Power of Local Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing powers such rules may provide—

- (a) for determining the court into which the sum shall be deposited ;
- (b) the procedure for keeping accounts of such deposits and the manner in which notices are to be served on creditors and payments made to them.

(2) In any suit brought against a debtor as defined in section 7 for the recovery of a loan borrowed after the commencement of this Act, no court shall pass a decree for a larger sum than twice the amount of the sum taken as principal.

PART VI.

DEPOSIT IN COURT.

30. (1) Any person who owes money may at any time deposit in court a sum of money in full or part payment to his creditor.

(2) The court on receipt of such deposit shall give notice thereof to the creditor and shall, on his application, pay the sum to him.

(3) From the date of such deposit interest shall cease to run on the sum so deposited.

31. (1) The Local Government may make rules for carrying into effect the provisions of this part of the Act.

Power of Local Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing powers such rules may provide—

- (a) for determining the court into which the sum shall be deposited ;
- (b) the procedure for keeping accounts of such deposits and the manner in which notices are to be served on creditors and payments made to them.

(3) The power conferred by this section of making rules is subject to condition that the rules be made after previous publication.

PART VII.

32. In section 1, sub-section (3) (a) of the Redemption of Mortgages (Punjab) Act, 1913, *Amendment of section 1 (3) (a) of the Redemption of Mortgages (Punjab) Act, 1913.* "50 acres" shall be substituted for "30 acres," and in sub-section (3) (b) of the same section for the figure "1,000" the figure "5,000" shall be substituted.

PART VIII.

MISCELLANEOUS AMENDMENTS OF THE CIVIL LAW.

33. Notwithstanding anything to the contrary contained in any other law for the time being in force, no debtor shall be liable to arrest for default in the payment of any money due under a decree :

Provided that the court may, on the application of the decree-holder and after an opportunity has been given to the debtor to

be heard, direct the arrest of the latter if it is proved to the satisfaction of the court that—

- (a) the decree was for a sum for which the debtor was bound in a fiduciary capacity to account ;
- (b) the debtor had transferred, concealed or removed any part of his property after the date of the institution of the suit in which the decree was passed deliberately with the object of obstructing or delaying the decree-holder in the execution of the decree ;
- (c) the debtor has given undue preference to any of his creditors with the object of defrauding his remaining creditors ;
- (d) the debtor has, without just cause, refused or neglected to pay the amount of the decree or some part thereof when he has, or since the date of the decree has had the means of paying it.

Explanation.—The expression "means of paying" shall not be deemed to include such property belonging to a debtor or is exempt from attachment or sale in execution of a decree.

34. In section 60 (1) (c) of the Code of Civil Procedure, 1908, for the words "occupied by him" the following words shall be substituted :—

Amendment of section 60 (1) (c) of the Code of Civil Procedure, 1908.

"not let out on rent or let to others or left vacant for a period of a year or more."

35. In Order XXI, Rule 2, of the Code of Civil Procedure, 1908, sub-rule (3) shall be omitted.

Amendment of Order XXI, Rule 2, of the Code of Civil Procedure, 1908.

36. For the words "twelve years" wherever they occur in section 48 of the Code of Civil Procedure, 1908, the words "six years" shall be substituted. At the end of sub-section (i) add the following proviso :—

Amendment of section 48 of the Code of Civil Procedure, 1908.

"Provided that in the case of a decree passed before the commencement of this Act the period of limitation shall be that existing immediately before this Act comes into force or six years, whichever is less."

37. (1) Notwithstanding anything contained in any other enactment for the time being in force, whenever a civil court orders that agricultural land belonging to an agriculturist should be attached and alienated temporarily to the decree-holder in satisfaction of a decree the proceedings of such attachment and alienation shall be transferred to the Collector, who shall decide the period of alienation after making such enquiry as he deems necessary,

Execution of decrees by temporary alienation of agricultural land.

The Collector shall be regarded as acting judicially in these proceedings and the party aggrieved by his order shall have a right to appeal to the Commissioner, whose order on appeal shall be final.

(2) *The Collector shall exempt from alienation such portion of the agricultural land belonging to an agriculturist judgment-debtor as is sufficient in his opinion for the maintenance of the judgment-debtor and his family.*

(3) *The Local Government may make rules for carrying into effect the provisions of this section.*
Power of Local Government to make rules.

(4) *The power conferred by this section of making rules is subject to condition that the rules be made after previous publication.*

38. *Notwithstanding anything contained in any other enactment for the time being in force the onus of proof of consideration entered in a bond or any other document excepting a receipt actually passed shall be on the creditor.*
Onus of proof of consideration.

J. D. ANDERSON,
 Secretary, Legislative Department.

LAHORE :
 The 4th October 1934.

ABNASHA SINGH,
 Secretary, Punjab Legislative Council.



Government Gazette Extraordinary

PUNJAB AND ITS DEPENDENCIES.

Published by Authority.

LAHORE, MONDAY, APRIL 8, 1935.

LEGISLATIVE DEPARTMENT.

The 8th April, 1935.

No. 161.—In pursuance of the provisions of sub-section (3) of section 81 of the Government of India, Act, the following Act of the Local Legislature of the Punjab, having been assented to by His Excellency the Governor on the 4th February, 1935, and by His Excellency the Viceroy and Governor-General on the 5th April, 1935, is hereby published for general information :—

The Punjab Relief of Indebtedness Act, 1934.

ACT No. VII of 1934.

An Act to provide for the Relief of Indebtedness in the Punjab.

WHEREAS it is expedient to amend the law governing the relations between debtors and creditors ;

And whereas the previous sanction of the Governor-General required under section 80-A (3) of the Government of India Act and the previous sanction of the Governor required under section 80-C of the said Act have been obtained ;

It is hereby enacted as follows :—

PART I. PRELIMINARY.

1. (1) This Act may be called the Punjab Relief of Indebtedness Act, 1934.

Short title, extent and commencement.

(2) This Part and Parts III, IV, V, VI, VII and VIII shall extend to the whole of the Punjab and Part II to such areas as the Local Government may from time to time, by notification, direct.

(3) This Act shall come into force on such date as the Local Government may, by notification, appoint in this behalf.

2. In this Act, unless there is anything repugnant in the subject or context,—

Interpretation clause.

- (1) "Interest" means rate of interest and includes the return to be made over and above what was actually lent whether the same is charged or sought to be recovered specifically by way of interest or otherwise ;
- (2) "Loan" means a loan whether of money or in kind, and includes any transaction which is, in the opinion of the court, in substance a loan.

PART II. INSOLVENCY PROCEDURES.

3. In section 10 (1) of the Provincial Insolvency Act, 1920, after the existing clause (a) the following clause shall be inserted—

"(aa) his debts amount to two hundred and fifty rupees, and he satisfies the court that he is entitled to summary administration of his

estate under section 74 of this Act; or".

4. In section 74 of the Provincial Insolvency Act, 1920, for the words "five hundred rupees" the words "two thousand rupees" shall be substituted.

Amendment of section 74 of the Provincial Insolvency Act, 1920.

PART III.

USURIOUS LOANS.

5. In section 8 of the Usurious Loans Act, 1918—

X of 1918.

Amendment of the Usurious Loans Act, 1918.

- (i) for the word "and" in clause (a) of sub-section (1) the word "or" shall be substituted:
- (ii) for the word "may" where it appears for the first time in sub-section (1) the word "shall" shall be substituted:
- (iii) for the word "may" after the word "namely" in sub-section (1) the word "shall" shall be substituted:
- (iv) to sub-section (2) the following clause shall be added—

"(e) The court shall deem interest to be excessive if on secured loans it exceeds twelve per centum per annum simple interest, or nine per centum per annum compound interest with annual rests, and if on unsecured loans it exceeds eighteen and three-quarter per centum per annum simple interest, or fourteen per centum per annum compound interest with annual rests: provided that the court shall not deem interest in excess of the above rates to be excessive if the loan has been advanced by the Imperial Bank of India, or any banking company registered under the Indian Companies Act, 1913, or any law relating to companies for the time being in force in British India.

6. The provisions of this part of the Act shall apply to all suits pending on or instituted after the commencement of this Act.

Retrospective effect.

after the commencement of this Act.

PART IV.

DEBT CONCILIATION BOARDS.

7. (1) "Debt" includes all liabilities of a debtor in cash or in kind, secured or unsecured, payable under a decree or order of a civil court or otherwise, whether mature or not, but shall not include debts incurred for the purposes of trade, arrears of wages, land revenue or anything recoverable as an arrear of land revenue, or any debt which is barred by the law of limitation, or debts due to co-operative banks or to co-operative societies or to the Imperial Bank of India or to any banking company registered under the Indian Companies Act, 1913, or the law

Interpretation clause (definitions).

VII of 1913.

relating to companies for the time being in force in British India.

(2) "Debtor" means a person who owes a debt and

- (i) who both earns his livelihood mainly by agriculture, and is either a landowner, or tenant of agricultural land, or a servant of a landowner, or of a tenant of agricultural land; or
- (ii) who earns his livelihood as a village menial paid in cash or kind for work connected with agriculture:

Provided that a member of a tribe, notified as agricultural under the Punjab Alienation of Land Act, 1900, shall be presumed to be a debtor as defined in this section until it is proved that his income from other sources is greater than his income from agriculture.

XIII of

Explanations.—(i) A debtor shall not lose his status as such through involuntary unemployment or on account of incapacity, temporary or permanent, by bodily infirmity, or, if he is or has been in service of His Majesty's Military or Naval Forces, only on account of his pay and allowances or pension exceeding his income from agricultural sources.

II of

(ii) A debtor shall not lose his status as such by reason of the fact that he makes income by using his plough cattle for purposes of transport.

(iii) A debtor shall not lose his status as such only because he does not cultivate with his own hands.

If any question arises in proceedings under this part of the Act, whether a person is a debtor or not, the decision of a Debt Conciliation Board shall be final.

(3) "Agriculture" shall include horticulture and the use of land for any purpose of husbandry inclusive of the keeping or breeding of livestock, poultry, or bees, and the growth of fruit, vegetables and the like.

(4) "Prescribed" means prescribed by rules made under this part of the Act.

8. (1) (a) The Local Government may for

the purpose of amicable settlement between debtors and their creditors establish debt conciliation boards.

(b) The Local Government shall define the local limits of the area in which a board shall have jurisdiction.

(c) The Local Government shall determine the pecuniary limits of the jurisdiction of the board, provided that no board shall have jurisdiction to make a settlement between a debtor and his

creditors if the total debts of the debtor exceed Rs. 10,000 or such larger amount as the Local Government may prescribe for any area.

- (d) Such Board shall consist of a chairman and two or more members to be appointed by the Local Government.
- (e) The chairman and every member of a board so established shall be appointed for a term not exceeding three years, but shall be eligible for re-appointment on the expiry of his term.
- (f) The quorum of a board shall be prescribed by the Local Government.
- (g) Where the chairman and members of a board are not unanimous, the opinion of the majority shall prevail, and, if the board is equally divided, the chairman shall exercise a casting vote.
- (2) The Local Government may cancel the appointment of any member of a board or dissolve any board.
- (3) The Local Government shall notify in the Gazette—
 - (a) the establishment of a board and the appointment of its members; and the board shall be deemed to have been established and its members appointed from the date specified in such notification or notifications;
 - (b) the cancellation of the appointment of any member of a board; and from the date specified in such notification the member shall cease to be a member of the board;
 - (c) the dissolution of a board; and from the date specified in such notification the board shall cease to exist.
- (4) When a board is dissolved or ceases to exist otherwise, the Local Government may at any time establish another board within the same local limits in which the former board had jurisdiction and may declare this board to be the successor in office of the first board and may confer on it power to dispose of such applications under section 13 (2) and section 28 as the Local Government may direct.

9. A debtor or any of his creditors may apply to the board appointed for the area in which a debtor resides or holds any land, to effect a settlement between the debtor and his creditors.

settlement between the debtor and his creditors:

Provided that no application shall be made if the debtor's debts exceed ten thousand rupees or such larger sum as the Local Government may prescribe for any particular area.

10 Every application to a board shall be in writing and be signed by the applicant and verified in such manner as may be prescribed.

11. (1) Every application presented by a debtor to a board shall contain the following particulars, namely,—

- (a) the place where he resides or holds land;
- (b) the particulars of all claims against him together with the names and residences of his creditors;
- (c) the particulars of all his property, together with a specification of the value of such property and the place or places at which any such property is to be found;
- (d) a statement that he is unable to pay his debts, and that they do not exceed the prescribed amount.

(2) Every application presented by a creditor shall contain the following particulars, namely,—

- (a) the place where the debtor resides or holds land;
- (b) the amount and particulars of his claim against such debtor;
- (c) a statement that the debtor is unable to pay his debts.

12. (1) On receipt of an application under section 9, the board shall pass an order fixing a date and place for hearing the application:

Provided that the board may at any time dismiss the application if, for reasons to be stated in writing, it does not consider it desirable to attempt to effect a settlement between the debtor and the creditors.

(2) Notice of the order under sub-section (1) shall be sent to creditors by registered post, acknowledgment due, and where the debtor is not the applicant, notice of the order under sub-section (1) shall be sent to him in a similar manner.

13. (1) On the date fixed the board shall publish, in such manner as may be prescribed, a notice, calling upon every creditor of the debtor to submit a statement of debts owed to such creditor by the debtor. Such statement shall be submitted to the board in writing within two months from the date of publication of the notice:

Provided that, if the board is satisfied that any creditor was, for good and sufficient

cause, unable to comply with such direction within the time fixed, it may extend the period for the submission of his statement of the debts owed to him.

(2) Every debt, of which a statement is not submitted to the board in compliance with the provisions of sub-section (1), shall be deemed for all purposes and all occasions to have been duly discharged :

Provided that if a creditor proves to the satisfaction of the board, or, if no board is vested with jurisdiction by the Local Government, to the satisfaction of a civil court, that the notice was not served on him and that he had no knowledge of its publication, the board or court may revive the debt.

14. (1) Every creditor submitting in compliance with a notice issued under sub-section (1) of section 13 a statement of the debts owed to him shall furnish, along with such statement, full particulars of all such debts, and shall at the same time produce all documents (including entries in books of account) on which he relies to support his claims, together with a true copy of every such document :

Provided that a decree or order of a civil court shall be conclusive evidence as to the amount of the debt to which the decree relates, but the amount may be reduced as the result of an agreement arrived at in accordance with section 17.

(2) The board shall, after marking for the purpose of identification every original document so produced and verifying the correctness of the copy, retain the copy and return the original to the creditor.

15. The board shall call upon the debtor and each creditor to explain his case regarding each debt, and shall use its best endeavours to induce them to arrive at an amicable settlement.

16. Any board empowered under this Act may exercise all such powers connected with the summoning and examining of parties and witnesses and with the production of documents as are conferred on civil courts by the Code of Civil Procedure, and every proceeding before the board shall be deemed a judicial proceeding.

17. (1) If the debtor and all or any of the creditors come to an amicable settlement, the board shall forthwith reduce such settlement to writing in the form of an agreement setting forth the amounts payable to each creditor and the manner in which and the times at which they are to be paid. Such agreement shall be read out and explained to the parties concerned, and shall be signed or otherwise authenticated by the board and the parties : provided that if the board is of the opinion that the period fixed for pay-

ment is excessive, the board may refuse to authenticate the agreement. The board shall also pass an order dismissing the application so far as it relates to the creditors who have not come to an amicable settlement.

(2) An agreement thus made shall take effect as if it were a decree of a civil court having jurisdiction in the area of the jurisdiction of the board.

18. If in the opinion of the board any applicant fails to conduct his application with due diligence, the board may dismiss the application at any stage.

19. If once an application has been made by a debtor and disposed of, no board shall entertain a second application within two years of the date of disposal of the first application.

20. (1) Where, during the hearing of any application made under section 9, any creditor refuses to agree to an amicable settlement, the board may, if it is of opinion that the debtor has made such creditor a fair offer which the creditor ought reasonably to accept, grant the debtor a certificate, in such form as may be prescribed, in respect of the debts owed by him to such creditor :

Provided that the board shall not grant a certificate unless the board is satisfied that creditors to whom not less than forty per centum of the debtor's debts are owing have come to an amicable settlement with the debtor.

(2) Where any creditor sues in a civil court for the recovery of a debt in respect of which a certificate has been granted under sub-section (1), the court notwithstanding the provisions of any law for the time being in force, shall not allow the plaintiff any costs in such suit, or any interest on the debt after the date of certification under sub-section (1) in excess of simple interest at six per centum per annum on the amount due on the date of such certificate.

(3) Where after the date of an agreement made in accordance with section 17 or of certification any unsecured creditor sues for the recovery of a debt in respect of which a certificate has been granted under sub-section (1) or any creditor sues for the recovery of a debt incurred after the date of such agreement, any decree passed in such suit notwithstanding anything contained in the Code of Civil Procedure, 1908, shall not be executed until six months after the expiry of the period fixed in the agreement authenticated under sub-section (1) of section 17.

21. No civil court shall entertain—

(a) any suit—

(i) to question the validity of any procedure or the legality of

Dismissal of applications in default.

Bar to successive applications.

Grant of certificate by board in respect of debts.

Procedure on submission of statements of debts.

Board to attempt amicable settlement.

Power of Board to require attendance of persons and production of documents and to receive evidence.

V of 1908.

Registration and effect of agreement.

Power of court to disallow costs or interest.

V of 1908.

- any agreement made under this Act, or
- (ii) to recover any debt recorded as wholly or partly payable under an agreement made in accordance with section 17 from any person who, as a debtor, was party to such agreement; or
- (iii) to recover any debt which has been deemed to have been duly discharged under sub-section (2) of section 13;

(b) any application to execute a decree, the execution of which is suspended under sub-section (3) of section 20.

22. No appeal or application for revision shall lie against any order passed by a board.

Bar of appeal or revision.

23. A board may, on the application from any person interested, review any order passed by it and pass such order as it thinks fit:

Power of board to review its order.

Provided that it shall not under this section pass an order reversing or modifying any order affecting any person interested without giving such person an opportunity of being heard:

Provided, further, that no application for review shall be entertained if presented more than twelve months after the date of the order which the person interested seeks to have reviewed.

24. In any proceedings under this part of the Act, any party may with the permission of the board be represented by an agent authorised in writing or by a legal practitioner.

Appearance of party before board by agent or by legal practitioner.

25. When an application has been made to a board under section 9, no civil court shall entertain any new suit or other proceeding brought for the recovery of any debt for the settlement of which application has been made to the board, and any suit or other proceeding pending before a civil court in respect of any such debt shall be suspended until the board has dismissed the application or an agreement has been made under section 17.

Bar to new suits and applications and suspension of pending suits and applications.

26. The time spent in proceedings before a conciliation board and the time during which a person is debarred from suing or executing his decree under the provisions of this Part of this Act shall be excluded when counting the period of limitation for any application, suit or appeal.

Extension of limitation.

27. The members of a board shall be deemed to be public servants within the meaning of the Indian Penal Code.

Members of boards deemed to be public servants.

28. (1) The Local Government may make any rules consistent with this Part of this Act to carry out the purposes thereof, and in particular and without prejudice to the generality of the foregoing power may make rules—

Power to make rules.

- (a) prescribing the amount of debt for the purposes of section 8 (1) (c);
- (b) prescribing the quorum for and regulating the procedure before a board;
- (c) prescribing the charges to be made by a board for anything done under this Act and the persons by whom and the manner in which such charges shall be paid;
- (d) prescribing the records to be kept and the returns to be made by a board;
- (e) prescribing the allowances to be paid to members of a board;
- (f) prescribing the place at which and the manner in which an agreement shall be registered;
- (g) prescribing the form of certificate to be granted under sub-section (1) of section 20; and
- (h) generally, for the purpose of carrying into effect the provisions of this Part of this Act.

(2) The power conferred by this section of making rules is subject to the condition that the rules be made after previous publication.

29. In making any rule the Local Government may direct that a breach thereof shall be punishable with fine which may extend to fifty rupees, and, where the breach is a continuing one, with further fine which may extend to ten rupees for every day after the first during which the breach continues.

Penalty for breach of the rules.

PART V. DAMDUPAT.

30. (1) In any suit brought after the commencement of this Act against a debtor as defined in section 7 for the recovery of a loan borrowed before the commencement of this Act, no court shall grant a decree in satisfaction both of principal and interest for a larger sum than twice the amount which the court finds to have been due at the commencement of this Act.

Damdapat.

(2) In any suit brought against a debtor as defined in section 7 for the recovery of a loan borrowed after the commencement of this Act, no court shall pass a decree for a larger sum than twice the amount of the sum taken as principal.

PART VI.

DEPOSIT IN COURT.

31. (1) Any person who owes money may at any time deposit in court a sum of money in full or part payment to his creditor.

(2) The court on receipt of such deposit shall give notice thereof to the creditor and shall, on his application, pay the sum to him.

(3) From the date of such deposit interest shall cease to run on the sum so deposited.

32. (1) The Local Government may make rules for carrying into effect the provisions of this Part of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers such rules may provide—

(a) for determining the court into which the sum shall be deposited ;

(b) the procedure for keeping accounts of such deposits and the manner in which notices are to be served on creditors and payments made to them.

(3) The power conferred by this section of making rules is subject to the condition that the rules be made after previous publication.

PART VII.

REDEMPTION OF MORTGAGES.

33. In section 1, sub-section (3) (a) of the Redemption of Mortgages (Punjab) Act, 1913, for the figures and word "90 acres" the figures and word "50 acres" shall be substituted, and in sub-section (3) (b) of the same section for the figures "1,000" the figures "5,000" shall be substituted.

PART VIII.

MISCELLANEOUS AMENDMENTS OF THE CIVIL LAW.

34. Notwithstanding anything to the contrary contained in any other law for the time being in force, no judgment-debtor shall be liable to arrest for default in the payment of

any money due under a decree unless the court is satisfied that the judgment-debtor has, without just cause, contumaciously refused to pay the amount of the decree, in whole or in part, within his capacity to make payment :

Provided that the court shall before issuing a warrant of arrest, give an opportunity to the judgment-debtor to show cause against its issue :

Provided further that when a court has power under the law to order a temporary alienation of the land of a judgment-debtor in execution of a decree, the court shall not for the purpose of this section take into account the value of any such temporary alienation in considering the capacity of the judgment-debtor to pay : and

Provided, further, that save in so far as is otherwise provided in this section the court in considering the capacity of the judgment-debtor to pay shall take into consideration the value of the property of the judgment-debtor only to the extent to which a civil court can dispose of it under the law in execution of a decree.

35. In section 60 (1) (c) of the Code of Civil Procedure, 1908, for the words "occupied by him" the following words shall be substituted —

"not let out on rent or lent to others or left vacant for a period of a year or more."

36. In Order XXI, Rule 2, of the Code of Civil Procedure, 1908, sub-rule (3) shall be omitted.

37. Where, in a suit for the recovery of a loan, the court is satisfied that an entry relating to the loan has been made in any document showing the amount of the sum advanced to be in excess of that actually advanced plus legitimate expenses incurred, the court may, at its discretion, disallow the whole or any part of the sum claimed by the plaintiff.

J. D. ANDERSON,

Secretary, Legislative Department.



The Government Gazette

PUNJAB AND ITS DEPENDENCIES.

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PART V.

PUNJAB LEGISLATIVE COUNCIL.

NOTIFICATION.

The 21st November, 1935.

No. 37.—The following report of the Select Committee on the Punjab Debtors' Protection Bill as presented to the Punjab Legislative Council on the 21st November, 1935, is published under Standing Order 44 of the Punjab Legislative Council Standing Orders :—

ABNASHA SINGH,
Secretary, Punjab Legislative Council.

Report of the Select Committee on the Punjab Debtors' Protection Bill.

The Select Committee met on the 31st October and 1st November, 1935. All members attended on the 31st October, but Messrs. Ujjal Singh and Bishen Singh were absent on the 1st November.

2. An alteration was made in the Preamble to make the intention of the Bill more explicit.
3. Verbal alterations were made in clause 1.

(49)

(1)

4. It was found that in clause 2 the definition proposed was incomplete and in one respect redundant. We have drafted a fresh definition for the purposes of this Bill.

5. We have divided the Bill into Chapters and have changed the order of certain of the clauses.

6. We have redrafted and expanded clause 3 with a view to making its provisions more explicit.

7. We have made verbal changes in clause 4 with a view to strengthening the protection accorded by the clause to persons in possession of property.

8. We have made considerable changes in the drafting of clause 5 and have distinguished the cases of various kinds of standing crops and standing trees.

I of 1872.
XXVI of
1881.
XVI of 1908.

9. We have redrafted clause 6 with the object of protecting the general presumption of law laid down in the Indian Evidence Act, the Negotiable Instruments Act and the Indian Registration Act.

V of 1908.

10. We have re-drafted clause 7 on the lines of section 48 of the Code of Civil Procedure, 1908, in order to give the same protection to decree holders as is given by that section subject to the preservation of the proposal to make the period of limitation six years.

I of 1930.

11. We have deleted clause 8, holding that the amendment of the Punjab Regulation of Accounts Act is at the moment premature.

12. We have redrafted clause 9 and have greatly expanded it with a view to providing the rights of appeal and a more definite procedure than was contained in the original draft.

13. We have made consequential amendments in clause 11 to bring it into conformity with the redraft of clause 9, and have added a proviso to ensure that the Legislative Council may have an opportunity to criticize draft rules.

14. A copy of the Bill as amended by the Committee is appended. The Bill was originally published in the *Punjab Gazette* of the 15th March, 1935. Although the changes in redrafting are very considerable the effect of our proposals has been to modify and not to change the intention of the Bill and we do not think that republication is necessary.

*UJJAL SINGH.

PANCHAM CHAND KATOCH.

*MAMRAJ SINGH CHOCHAN.

BISHEN SINGH.

SAMPURAN SINGH.

MOHAMMAD HAYAT QURESHI.

RIASAT ALI.

AKBAR ALI.

ZAMAN MEHDI KHAN.

*D. J. BOYD.

*J. D. ANDERSON.

BUTA SINGH.

CHHOTU RAM.

MINORITY REPORT.

We have signed the report of the Select Committee, reserving our right to speak and vote against the Bill or any clause of the Bill.

D. J. BOYD—1-11-35.

MAMRAJ SINGH CHOCHAN.

UJJAL SINGH.

J. D. ANDERSON—4-11-35.

*Subject to minority report.

Annexure to the Report.

BILL No. 1 OF 1935.

The Punjab Debtors' Protection Bill.[Bill as introduced in the Council on the 29th
March, 1935.]*A Bill to provide for the more effective protection of debtors in the Punjab.*

WHEREAS it is expedient for the more effective protection of debtors to modify the existing law on certain points and to exclude money-lenders of an undesirable type from the profession of money-lending :

And whereas the previous sanction of the Governor-General required under section 80-A (3) of the Government of India Act and the previous sanction of the Governor required under section 80-C of the said Act have been obtained :

It is hereby enacted as follows :—

1. (1) This Act may be called the Punjab Debtors' Protection Act,
Short title, extent and commencement. 1935 .

(2) This Act shall extend to the whole of the Punjab.

(3) This Act shall come into force at once except sections 9 and 10 which shall come into force on such date as the Local Government may, by notification, appoint in this behalf.

2. In this Act unless there is anything repugnant in the subject or context the expression " money-lender " shall have the same meaning as the word " creditor " has under the Punjab Regulation of Accounts Act of 1930.

[Bill as amended by the Select Committee.]

THE AMENDMENTS MADE ARE SHOWN IN
ITALICS.*A Bill to provide for the more effective protection of debtors in the Punjab.*

WHEREAS it is expedient for the more effective protection of debtors to modify the existing law on certain points *and to amend the law with respect to persons carrying on business as money-lenders ;*

And whereas the previous sanction of the Governor-General under ~~section 80-A (3)~~ of the Government of India Act and the previous sanction of the Governor under section 80-C of the said Act have been obtained :

It is hereby enacted as follows :—

CHAPTER I—PRELIMINARY.

1. (1) This Act may be called the Punjab Debtors' Protection Act,
Short title, extent and commencement. 1935.

(2) *It extends to the Punjab.*

(3) *This Chapter and Chapters 2 and 3 shall come into force at once and Chapter 4 shall come into force (on such date as the Local Government may, by notification, appoint in this behalf)*

2. In this Act, unless there is anything repugnant in the subject or context,—

(1) " Bank " means a company carrying on the business of banking and registered under any of the enactments relating to companies for the time being in force in the United Kingdom or in any of the Colonies or Dependencies thereof or in British India or incorporated by an Act of Parliament or by Royal Charter or Letters Patent or by any Act of the Indian Legislature.

(2) " Company " means a company registered under any of the enactments relating to companies for the time being in force in the United Kingdom or any of the Colonies or Dependencies thereof or in British India or incorporated by Act of Parliament or by Royal Charter or Letters Patent and includes Life Assurance Companies to which the Indian Life Assurance Companies Act, 1912, VI of 1912, applies.

(3) " Co-operative Society " means a society registered under the provisions of Co-operative Societies Act, 1912. II of 1912.

(4) "Court" includes a court acting in the exercise of insolvency jurisdiction.

6 (5) "Loan" means an advance whether of money or in kind at interest and shall include any transaction which the court finds to be in substance a loan, but it shall not include:—

(i) a deposit of money or other property in a ~~Government Post-Office Bank~~ or any other bank or in a company or with a co-operative society;

(ii) a loan to or by or a deposit with any society or association registered under the Societies Registration Act, 1860, or under any other enactment;

XXI of 1860.

Local (iii) a loan advanced by *Local* Government or by any local body authorised by Government;

Indian (iv) a loan advanced by a bank, a co-operative society or a company whose accounts are subject to audit by a certificated auditor under the Companies Act;

(v) a loan advanced to trader;

(vi) an advance made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1881, other than a promissory note;

XXVI of 1881.

(vii) a transaction which is, in substance, a mortgage or a sale of immovable property;

7 (6) "Money-lender" means a person who, in the regular course of business, advances a loan as defined in this Act and shall include the legal representatives and the successor-in-interest whether by inheritance, assignment or otherwise of the person who advanced the loan.

5 (7) "Interest" includes the return to be made over and above what was actually lent, whether the same is charged or sought to be recovered specifically by way of interest or otherwise.

(8) "Prescribed" means prescribed by rules made under this Act.

(9) "Trader" means a person who in the regular course of business buys and sells goods or other property, whether moveable or immovable, and shall include—

(i) a wholesale or a retail merchant,

(ii) a commission agent,

(iii) a broker,

(iv) a manufacturer,

(v) a contractor,

(vi) a factory owner,

but shall not include a person who sells his own agricultural produce or cattle, or buys agricultural produce or cattle for his own use.

4. On the proceedings being transferred to him by the Civil Court the collector shall decide the period of alienation which shall not exceed 20 years in the case of a land owned by a member of a statutory corporation to be determined to be such by the S. G. in exercise of the powers conferred by Sec 4 of Punjab Ali-enating Land Act of 1901.

3. (1) Notwithstanding anything contained in any other enactment for the time being in force, whenever a Civil Court orders that agricultural land should be attached and alienated temporarily in the execution of a decree the proceedings of such attachment and alienation shall be transferred to the Collector, who shall decide the period of alienation after making such enquiry as he deems necessary.

(2) The Collector shall be regarded as acting judicially in these proceedings and the party aggrieved by his order shall have a right of appeal to the Commissioner whose order on appeal shall be final.

(3) The Collector shall exempt from temporary alienation such portion of the agricultural land belonging to an agriculturist judgment-debtor as is sufficient in his opinion for the maintenance of the judgment-debtor and his family.

(4) The Local Government may, subject to the condition of previous publication, make rules for carrying into effect the provisions of this section.

B's income from all sources except such as is dependent on the will of another person

C. and shall act in accordance with the provisions of law applicable to the Court from which the proceedings were transferred to him

4. Notwithstanding anything to the contrary contained in any other enactment for the time being in force, ancestral property in the hands of an heir shall not be liable to attachment in the execution of a decree relating to a debt incurred by his predecessor in interest.

Exemption of ancestral property from attachment.

CHAPTER II.—EXECUTION OF DECREES.

3. In this Chapter, unless there is anything repugnant in the subject or context—

(1) "land" means land which is not occupied as the site of any building in a town or village, and is occupied or has been let for agricultural purposes, or for purposes subservient to agriculture, or for pasture, and includes the sites of buildings and other structures on such land;

(2) "Collector" means the Deputy Commissioner of a district or any officer specially empowered by the Local Government to exercise the powers of a Collector under this Chapter.

4. Notwithstanding anything contained in any other enactment for the time being in force, whenever a Civil Court orders that land be attached and alienated temporarily in the execution of a decree for the payment of money the proceedings of such attachment and alienation shall be transferred to the Collector, who shall decide the period of alienation, provided that the period of alienation shall in no case exceed twenty years.

5. Such portion of the judgment debtor's land shall be exempted from temporary alienation as in the opinion of the Collector having regard to other land owned and possessed by the judgment debtor is sufficient to provide for the maintenance of the judgment debtor and his family.

6. The Collector when acting under sections 4 and 5 shall be deemed to be acting judicially and any party aggrieved by an order under section 4 or 5 shall have a right of appeal to the Commissioner whose order on appeal shall be final.

7. The period of limitation for an appeal under the last foregoing section shall run from the date of the order appealed against and shall be sixty days.

8. The Local Government may, subject to the condition of previous publication, make rules for carrying into effect the provisions of sections 4, 5, 6 and 7 of this Chapter.

9. Notwithstanding anything to the contrary contained in any other enactment for the time being in force, ancestral property in the hands of a subsequent holder shall not be liable to attachment in the execution of a decree or order of a court relating to a debt incurred by any of his predecessors in interest.

Exemption of ancestral property from attachment.

of the collector
The Commissioner
shall hear
appeals
under this
Act and
shall
decide
the
order
of the
Collector
acting
judicially

will
be
subject
to
the
order
of the
Court
or
the
Collector

(5)

5. Notwithstanding anything to the contrary contained in any other enactment for the time being in force, standing crops and trees shall not be liable to attachment in the execution of a decree.

Exemption of standing crops and trees from attachment.

7. Notwithstanding anything to the contrary contained in any other enactment for the time being in force, no execution proceedings shall be initiated or continued after six years have elapsed since the decree was passed :

Limitation for execution of decrees.

Provided that in the case of any existing decree this period shall be either six years or the remainder of the period prescribed under the law previously governing the execution of the decree, whichever is less.

A proviso after the commencement of this Act after a debtor as defined in Sec 2 of Sec 7 of Punjab Relief of Debtors Act 1934 not being a decree of granting an injunction

6. Notwithstanding anything to the contrary contained in any other enactment for the time being in force, the burden of proving that any consideration, entered in a bond, promissory note or any other document excepting a receipt, actually passed shall be on the creditor.

Burden of proof of consideration.

B unless the Consideration is acknowledged by a debtor in his own handwriting or has been endorsed by the registering officer, existing under Section 58 of the Indian Registration Act 1908 as having been paid in his presence. clause C of Sub-section 58

10. Notwithstanding anything to the contrary contained in any other enactment for the time being in force :—

Exemption of standing crops and trees from attachment or sale.

- (1) standing crops other than cotton and sugarcane shall not be liable to attachment or sale in the execution of a decree ;
- (2) standing trees shall not be liable to sale in execution of a decree or an order of a court,

11. Notwithstanding anything to the contrary contained in any other enactment for the time being in force—

Execution barred in certain cases.

where an application to execute a decree not being a decree granting an injunction has been made, no order for the execution of the same decree shall be made upon any fresh application presented after the expiration of six years from—

- (a) the date of the decree sought to be executed, or
- (b) where the decree or any subsequent order directs any payment of money or the delivery of any property to be made at a certain date or at recurring periods, the date of the default in making the payment or delivery in respect of which the applicant seeks to execute the decree.

(2) Nothing in this section shall be deemed—

- (a) to preclude the Court from ordering the execution of a decree upon an application presented after the expiration of the said term of six years, where the judgment-debtor has, by fraud or force, prevented the execution of the decree at some time within six years immediately before the date of the application ; or
- (b) to limit or otherwise affect the operation of article 183 of the First schedule to the Indian Limitation Act, 1908.

IX of 1908.

CHAPTER III—BURDEN OF PROOF.

12. Notwithstanding anything to the contrary contained in any other enactment for the time being in force, the burden of proving that any consideration alleged to have been paid by a money lender actually passed shall be on him unless the loan has been recorded in a document admitted to registration and in so far as the registering officer acting under section 58 (1) (c) of the Indian Registration Act, 1908, has endorsed on the document any payment of money made in his presence in reference to the execution of the document.

Burden of proof of consideration.

XVI of 1908

CHAPTER IV.

13. In this Chapter unless there is anything repugnant in the subject or context " Collector " means the Collector of a District as defined in section 6 (2) of the Punjab Land Revenue Act, 1887.

Definition.

XVII of 1887.

(6)

8. In section 4 (b) of the Punjab Regulation of Accounts Act, 1930, the words "of the interest found due and shall also disallow costs" shall be substituted for the last twenty-five words following the word "whole" in line 6.

9. The Collector in each district shall maintain a register of licensed money-lenders in his district and may remove from it the name of any person who, in his opinion, is not fitted for the profession of money-lending.

14. A money-lender as defined by this Act shall register himself as a money-lender in accordance with the rules made by the Local Government under this Act at the office of the Collector of the district or districts in which he carries on his money-lending business.

15. When a person applies to the Collector for registration as a money-lender the Collector shall record his name in the register of money-lenders of the district, and shall grant him a licence permitting him to carry on the business of money-lending on payment of such fee and on such conditions as the Local Government may prescribe by rules made under this Act.

16. A money-lender who violates any rule made under this Act, shall, on conviction before the Collector, be liable to a fine not exceeding Rs. 1,000 and to the removal of his name from the register of money-lenders for such period as the Collector thinks fit.

Provided that the Collector shall pass no order against the money-lender under this section without giving him an opportunity of being heard and of producing such evidence as he may wish to produce.

17. An appeal shall lie to the Commissioner from an order passed by the Collector under the last foregoing section and a second appeal to the Financial Commissioner, provided that when an original order is confirmed on first appeal a further appeal shall not lie.

18. The period of limitation for an appeal under the last foregoing section shall run from the date of the order appealed against and shall be as follows:—

(a) When the appeal lies to the Commissioner .. 60 days.

(b) When the appeal lies to the Financial Commissioner 90 days.

19. (1) A Financial Commissioner, Commissioner or Collector may either of his own motion or on the application of any party interested review and on so reviewing modify, reverse or confirm any order passed by himself or by any of his predecessors in office, provided as follows:—

(a) When a Commissioner thinks it necessary to review any order which he has not himself passed, he shall obtain the sanction to review of the Financial Commissioner and when a Collector thinks it necessary to review any order which he has not himself passed he shall obtain the sanction to review of the Commissioner.

10. No claim for the recovery of a debt advanced after the date on which the provisions of this Act in regard to the licensing of money-lenders come into force shall be entertained by any Court, if that debt was advanced by a money-lender while his name was not borne on the register of licensed money-lenders.

Bar to claim by unlicensed money-lender.

11. The Local Government shall, subject to the condition of previous publication, frame rules for carrying out, generally, the object of sections 9 and 10, and, in particular, for the purpose of prescribing—

Framing of rules.

- (a) the conditions which a person shall fulfil in order to have his name entered on the register of licensed money-lenders ;
- (b) the circumstances under which the name of a person may be removed from the register of licensed money-lenders
- (c) the manner and form in which the register of licensed money-lenders shall be maintained ;
- (d) the scale of fees which shall be charged for the issue or renewal or restoration of a licence.

(b) An application for review of an order shall not be entertained unless it is made within 90 days from the passing of the order or unless the applicant satisfies the Financial Commissioner, Commissioner or Collector before whom the application is made that he has sufficient cause for not making the application within that period.

(c) An order shall not be modified or reversed unless reasonable notice has been given to the parties affected thereby to appear and be heard in support of the order.

(d) An order against which an appeal has been preferred shall not be reviewed.

(2) An appeal shall not lie from an order refusing to review or confirm on appeal a previous order.

20. No claim for the recovery of a debt advanced after the date on which the provisions of this Act in regard to the licensing of money-lenders come into force shall be entertained by any court if that debt was advanced by a money-lender while his name was not borne on the register of licensed money-lenders.

Power to claim by unlicensed money-lender.

21. (1) The Local Government may make rules not inconsistent with this Chapter of the Act for the purposes of carrying out all or any of the provisions of this Chapter.

Powers of the Local Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing power the Local Government may make rules :—

- (i) prescribing the reasons for which the name of a person may be removed from the register of licensed money-lenders ;
- (ii) the manner and form in which the register of licensed money-lenders shall be maintained ;
- (iii) the scale of fees which shall be charged for the issue or renewal or restoration of the licence.

Provided that before making any rules under the provisions of this Chapter, the Local Government shall, in addition to observing the procedure laid down in section 21 of the Punjab General Clauses Act, 1898, publish by notification a draft of the proposed rules for the information of persons likely to be affected thereby, at least thirty days before a meeting of the Punjab Legislative Council. The Local Government shall defer consideration of such rules until after the meeting of the Punjab Legislative Council next following the publication of the draft, in order to give any member of the Council an opportunity to introduce a motion for discussing the draft.

J. D. ANDERSON,

Secretary, Legislative Department.

LAHORE :

The 6th November, 1935.

157408-580-29-11-35-SGPP Lahore.

ABNASHA SINGH,

Secretary, Punjab Legislative Council.

(9)

No. 1996/IA.

REVENUE (A) DEPARTMENT.

Dated September 7, 1932.

The Governor in Council is pleased to order the publication of the following papers regarding the Agricultural Debt Inquiry Committee for general information. Any criticisms or opinions received within one month will be considered by Government.

By order,
H. A. LANE,
Secretary to Government,
United Provinces.

PROCEEDINGS OF THE AGRICULTURAL DEBT ENQUIRY COMMITTEE, UNITED PROVINCES.

AGRICULTURAL DEBT ENQUIRY COMMITTEE.

Chairman.

(1) Hon'ble Mr. E. A. H. Blunt, C.I.E., O.B.E., I.C.S., Finance Member.

Members.

- (2) Rai Rajeshwari Prasad Sahib, M.L.C.
- (3) Khan Bahadur M. Mohammad Ismail Sahib, Bar.-at-Law, M.L.C.
- (4) Khan Bahadur Maulvi Fasih-ud-din Sahib, M.L.C.
- (5) Khan Bahadur Saiyid Jafer Hosain Sahib, Bar.-at-Law, M.L.C.
- (6) Rao Krishnapal Singh Sahib, M.L.C.
- (7) Khan Bahadur Maulvi Muhammad Obaid-ur-Rahman, Khan Sahib, M.L.C.
- (8) Brijnandan Lal, Esq., Bar.-at-Law, M.L.C.
- (9) Rai Bahadur Babu Awadh Bihari Lal Sahib, M.L.C.
- (10) Rai Bahadur Babu Jawahir Lal Singha Sahib.
- (11) Pandit Shree Sadayatan Pande Sahib, M.L.C.
- (12) Rai Bahadur Thakur Hanuman Singh Sahib, M.L.C.
- (13) Shaikh Muhammad Habib-ullah Sahib, O.B.E., M.L.C.
- (14) Rai Bahadur Kunwar Surendra Pratap Sahi Sahib, M.L.C.

(15) Nawabzada Muhammad Liaqat Ali Khan, Bar.-at-Law, M.L.C.

(16) Rai Sahib Lala Anand Sarup Sahib, M.L.C.

(17) Kunwar Jagbhan Singh Sahib, M.L.C.

(18) Hon'ble Raja Sir Moti Chand, kt., C.I.E.

(19) Dr. Radha Kamal Mukerjee, M.A., Ph.D., Professor of Economics, Lucknow University.

(20) M. L. Sah, Esq., M.A., LL.B., Almora (Tehri House, Dehra Dun).

(21) Professor S. K. Rudra, M.A., Dean of the Faculty of Commerce, Allahabad University.

(22) Thakur Muneshwar Bakhsh Singh Sahib, M.L.C.

(23) Babu Madhusudan Dayal Sahib, Banker, Hapur.

(24) Sahu Jwala Saran Kothiwala Sahib, M.L.C.

(25) K. N. Knox, Esq., C.I.E., I.C.S., Settlement Commissioner, United Provinces.

(26) P. M. Kharegat, Esq., I.C.S., Registrar, Co-operative Societies, United Provinces.

(27) Rai Bahadur Pandit Gursewak Singh Upadhyaya Sahib, Deputy Registrar, Co-operative Societies, United Provinces.

(28) Wajahat Husain, Esq., I.C.S.

(29) A. A. Wagh, Esq., I.C.S.

(30) P. C. Mogha, Esq., B.A., LL.B., Deputy Legal Remembrancer.

(31) Dr. D. L. Dubey, M.A., Ph.D., Professor of Economics, Meerut College.

(32) Khan Bahadur Hafiz Hidayat Husain

(33) Maulvi Sir Mohammad Yakub, kt., M.L.A.

Agenda.

1. To determine what proposals for relief merit consideration.

(A list of subjects is attached.)

2. To consider under what heads the various proposals for relief should be grouped.

3. To consider which classes of proposals require the earliest action possible and should therefore be dealt with first.

4. To form sub-committees for dealing with groups of proposals.

5. To arrange a general time-table work and reports on recommendations.

LIST OF SUBJECTS.

The various suggestions put forward may conveniently be grouped under a few heads, according to the nature of the sanction required for putting them into effect, if it were decided to adopt one or any of them.

A.—PROPOSALS WITHIN THE EXISTING POWERS OF THE LOCAL GOVERNMENT.

1. *Debt Conciliation*, which involves voluntary composition of present debt and of interest thereon through Conciliation Boards, committees or *panchayats*. Composition on capital, past interest, future interest and instalments, if arrived at by agreement, does not necessarily involve legislation; but legislation might be necessary or desirable if certain powers of settlement were conferred (see under B below).

2. *Executive action to promote land-mortgage banks, debt redemption societies, co-operative societies*.—Requires legislation if special powers of realization are given to banks or to special types of societies (see under B below).

3. *Notification under section 61, Civil Procedure Code*.—Exempting from liability to attachment or sale in execution of a decree such portion of the harvest as appears necessary for the purpose of providing until the next harvest for the due cultivation of the land and the support of the judgment-debtor and his family until the next harvest.

The local Government can exempt all agriculturists or any class of agriculturists by general or special order in the Gazette.

4. *Suspension or re-arrangement of instalments of arrears of taqavi*.

5. *Alteration of the system of recovery of arrears of Agricultural Department seed-loans for the fall in produce-value*.

B.—PROPOSALS REQUIRING LEGISLATIVE ACTION.

6. Generally, an *Agricultural Debts Relief Act*. This could embody—

- (a) provisions enabling a debtor to apply, on low court-fees, to a court to—
 - (i) issue notice to a creditor to state principal and interest due,
 - (ii) reduce interest,
 - (iii) fix instalments,
- (b) provision enabling agriculturists to apply to a court to fix instalments and rates of interest applicable to fresh loans;
- (c) provision exempting agricultural debtors from arrest in execution of civil decrees (as in the Dekhan Agriculturists Relief Act) except in the case of dishonest transfer of property to avoid payment;
- (d) provisions authorizing repayment in kind of loans taken in kind;
- (e) provisions making irrecoverable at law loans which represent more than a certain multiple of the rent of a tenant, or of a class of tenants; and varying the multiple for different classes of tenant.

It would be necessary to discuss, if legislative action on any of these or other points is considered desirable, whether it should deal with each point by separate enactments; if not, what subjects can properly come within the scope of an Agricultural Debts Relief Act. The fewer separate enactments the better.

7. A *Money-lenders Act*, which could embody—

- (a) provision for regulation of accounts, as in the *Punjab Regulation of Accounts Act, 1930*, which provides for six-monthly statements of accounts;
- (b) provision making charges for expenses and the like by money-lenders irrecoverable at law;
- (c) provision that no contract for repayment of a money-lender's loan shall be enforceable if there is no note or memorandum of the contract made and signed by the borrower, or if it is proved that the note or memorandum was not signed before the money was lent;
- (d) provision empowering courts to dismiss suits brought by money-lenders for recovery of sums due from borrowers in distant districts;
- (e) provision for the restraint and, if necessary, deportation of certain classes of peripatetic money-lenders;
- (f) provision making irrecoverable at law loans which represent more than a certain multiple of the rent of a tenant, etc.
- (g) provision penalizing the practice of taking thumb-impressions on blank stamped papers, or of recording as lent a sum greater than was actually lent, and the like.

8. *Redemption of Mortgages Act*.—(In the Punjab a landholder debtor of certain classes may apply to the Collector for redemption of mortgage on the ground that he has already paid a sufficient sum by way of interest; and the Collector has the power to adjudge the mortgage fully paid or to fix the amount which shall be paid in full satisfaction of the mortgage.)

9. *Amendment of the Usurious Loans Act*.—This includes proposals to limit the rates of interest, whether by way of the maximum rate which may be legal or the minimum rate which may be declared usurious, or both; proposals relating to *damdupat* and the like; proposals declaring compound interest on loans in kind illegal or usurious; proposals to remove doubts in the minds of courts as to the exercise of their discretion under the Act; proposals to nullify rulings of the courts which impede the effective utilization of the Act, etc.

10. *Amendment of the Contract Act*.—(In view of an alleged Privy Council ruling that to prove that a transaction was "unconscionable" it must be proved that the creditor was in a position to dominate the will of the debtor.)

11. *Amendment of the Transfer of Property Act*.—In view of recommendations that

every usufructuary mortgage-deed should bear on the face of it the date of final redemption; and that the law should provide for the automatic extinction of land mortgages.

12. *Amendment of the Insolvency Act.*—To reduce the minimum amount of debt to which the law applies (at present Rs. 500); to make better and wider provisions for receivers; to prevent persons guilty of bad faith from being declared insolvent, etc.

13. *Amendment of the Agra Tenancy Act and the Oudh Rent Act* to enable expropriatory and occupancy tenants to mortgage their holdings to land mortgage banks.

14. *Extension of the Bundelkhand Land Alienation Act and Bundelkhand Encumbered Estates Act* to new areas; and *amendment*, e.g., declaring land mortgage banks and co-operative societies agriculturists.

15. *An Act conferring powers on Collectors and Conciliation Boards, etc., in respect of debt settlement*, e.g., power to make settlements of debt in the villages or at rural centres, to settle cases at the instance of the debtor or of the creditor only, to settle the repayment in kind of debts taken in kind; or repayment in kind of debts taken in cash before an agreed date, defining the limits of their operations, etc.

16. *An Act to establish land mortgage banks and conferring certain powers and privileges on such banks.*

C.—REQUIRING SANCTION AND ACTION BY THE HIGH COURT AND CHIEF COURT.

17. *Amendment of order XX, the Civil Procedure Code under section 122 of the Act so to enable courts to fix instalments after decree as well as before decree, and to restore instalments even if the decree stipulated that on default of one instalment the whole becomes due.*

AGRICULTURAL DEBT INQUIRY.

Questionnaire for supervisor qanungos and Inspectors of co-operative societies.

(NOTE.—Each qanungo and inspector will immediately complete the following inquiry for six typical villages of his circle selecting preferably those taken up for the Banking Enquiry Committee. As soon as he has answered the questions for the first village taken up, he must immediately despatch his report for that village to the officer noted below, and similarly with each village taken up thereafter. He must not delay the reports because other villages remain for inquiry. Replies should be sent as follows:—

From circles in the Allahabad and Agra divisions. To Mr. P. M. Kharegat, I.C.S., Lucknow.

From circles in the Benares and Gorakhpur divisions. To Rai Bahadur Pandit Gur Sewak Singh Upadhyay, Lucknow.

From circles in the Lucknow, Fyzabad and Jhansi divisions. To Mr. Wajahat Husain, I.C.S., Sultanpur.

From circles in the Meerut and Rohilkhand divisions. To Mr. A. A. Waugh, I.C.S., Meerut.

The last replies must reach the officer concerned before January 18, 1932. They must all be signed and dated by the qanungo and inspector).

District _____
Sub-division _____
Circle _____

A.—SHORT-TERM DEBT.

(By short-term debt is meant debt which is usually incurred from one harvest to another for current requirements such as seed, fodder, subsistence, cloth, etc., by tenants as well as by zamindars.)

I.—(a) To what extent have short-term loans incurred before *kharif* 1338 *Fasli* (i) been repaid, (ii) accumulated without renewal, (iii) been renewed?

(b) On what terms have they been renewed?

II.—(a) Is the amount of new short-term loans in 1931 much less than the amount usually granted before the fall in prices?

(b) Are repayments in 1931 of old debts much less than the amount of new loans granted in 1931?

III.—What steps have creditors taken to enforce payment of outstanding debts? Have they sought the aid of the Civil Court to enforce payment by attachment of (a) crops, (b) movable property? Have such measures been successful?

IV.—(a) Is there a fall in the number of cattle owned by cultivators, and a rise in the number of cattle taken on hire?

(b) What prices do cattle fetch now on free sale and on forced sale as compared with the prices before the fall in prices of grain?

V.—What is the present position as to the ability and willingness to lend of—

- (a) tenant lenders;
- (b) zamindar lenders;
- (c) local banias and petty non-agricultural lenders;
- (d) *sahukars* and other large-scale professional lenders;
- (e) peripatetic money-lenders—*kistwalas*, *Kabulis*, *Harhias*, etc.?

VI.—(a) In what ways has the fall in prices altered the conditions on which short-term loans are granted, i.e., in respect of rates of interest, the security required, or in other respects?

(b) Are more debts now recorded by bond (pro-note) than by ledger (*bitikha'a*) entry or *dast gardan* (without entry) than formerly, or *vice versa*?

(c) Are more ornaments and other household articles being pawned or sold than before?

VII.—If short-term loans have become scarce or unobtainable, are there any instances in which—

- (a) culturable land has remained fallow for want of capital, for seed, etc.;
- (b) cultivators have had to go without the means of subsistence?

VIII.—To what extent have cultivators voluntarily retained, for subsistence, seed and profit, more or less, of the produce of the last *rabi* and *kharif* crops than formerly?

IX.—To what extent has produce which the agriculturists wished to sell remained in their hands owing to absence of buyers?

X.—Are there instances where the lender and the borrower have compromised for payment, by instalments, of a sum which is less than the accumulated debt (including interest) due?

Give details of any such instances, with any particulars as regards future interest, and state whether they are common or not?

XI.—Would lenders and borrowers welcome an instalment scheme, that is, a scheme for settling accumulated debts and interest by fixing reasonable instalments which borrowers could pay; if so, on what condition?

XII.—Can you suggest any means of settling cultivators' debts so as to preserve their rights and power of borrowing without injuring the fair rights of lenders?

B.—LONG-TERM DEBT.

(Debt taken for a period of not less than one year by zamindars as well as tenants.)

XIII.—(1) To what extent have long-term debts incurred before *khariif* 1338 (i) been repaid, (ii) accumulated without renewal, (iii) been renewed?

(2) On what terms have unpaid loans been renewed?

XIV.—To what extent have creditors sought to enforce payment of those debts by—

- (a) sale of property other than land;
- (b) sale of land;
- (c) in other ways?

XV.—Have indebted proprietors been able to compromise with creditors for payment of less than the capital and interest due, and for instalments?

Give details of any such compromises.

XVI.—What difference is there now, in the terms of interest, mortgage, security required, etc., on which long-term debts may now be obtained, compared with terms before the fall in prices?

XVII.—Is the sale of land increasing? Who are the main classes of vendors and purchasers in your circle? Is sale by agriculturists to non-agriculturists increasing since the fall in prices, or not?

XVIII.—Is there a desire for restrictions on the sale of land in your circle; i.e., for having some sort of Land Alienation Act? If so, among what classes does it exist? Is this desire opposed, and by what classes?

XIX.—Can you suggest any means of maintaining proprietary rights without injuring the power of proprietors to borrow for their needs?

Statement of transfers, etc., and sale prices of revenue-paying land. District _____

Year.	Number of cases.	By private treaty.					Under orders of court.					Number of mortgage cases.	Number of redemption cases.	
		Aggregate area and revenue of property transferred.		Price.	Number of year's purchase.	Price per acre.	Aggregate area and revenue of property transferred.		Price.	Number of year's purchase.	Price per acre.			
		Area.	Revenue.				Area.	Revenue.						
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
		Acres.	Rs.	Rs.		Rs.		Acres.	Rs.	Rs.		Rs.		
1927														
1928														
1929														
1930														
1931														
By months 1930.														
January														
February														
March														
April														
May														
June														
July														
August														
September														
October														
November														
December														
1931.														
January														
February														
March														
April														
May														
June														
July														
August														
September														
October														
November														
December														

Summary of replies to questionnaire on agricultural debt issued with Revenue Secretary's no. 18-B/I.B., dated January 6, 1932.

(Replies concerning some 2,500 villages have been received.)

I.—Meerut and Rohilkhand divisions.

(Percentages or figures are given where there are sufficiently definite replies for a sufficiently large number of villages.)

A.—SHORT-TERM DEBT.

Question I.—Repayment and renewal of short-term loans.

Division.	Amount repaid: up to—				
	Nothing.	10 per cent.	25 per cent.	50 per cent.	Over 50 per cent.
Meerut..	18	28	38	20	11 per cent. of villages.
Rohilkhand.	12	5	20	40	25 per cent. of villages.

Renewal of loans.—Figures vary; some 15 per cent. of renewal loans were renewed in Meerut division; some 40 per cent. in Rohilkhand.

Accumulation of debt.—In Meerut division much more than half the debt now represents more than three years' rent; in Rohilkhand the proportion of debt representing more than three years' rent has risen from some 12½ per cent. to some 50 per cent. since the fall in prices.

Terms for renewing debt.—On the whole, little change; mostly on firm promise to pay in the *rabi*, or one *some* payment as earnest of good faith.

Question II.—Amount of new loans.—In Meerut division, about 25 per cent. of what was granted before the fall in prices; in Rohilkhand, about 50 per cent.

The amount of old debt repaid is, in 97 per cent. of villages, much less than the amount of fresh loans granted.

Question III.—Steps taken to enforce payment.—Both divisions report that in two-thirds of the villages no legal steps were taken—chiefly owing to expense and to small hope of success. In 20 per cent. of villages executions were attempted in a few cases, with little success; and with comparative success in one-tenth of the cases in which they were attempted.

Question IV.—Decrease in number of cattle hired.—(By villages investigated)—

Division.	No decrease.	Decrease up to 25 per cent.	Decrease more than 25 per cent.
Meerut ..	10 per cent.	80 per cent.	10 per cent.
Rohilkhand ..	25 "	70 "	5 "

There is apparently little rise in the number of hired cattle; but there is reason to think that there is a large rise in the number of cattle purchased by instalment and virtually

hired, inasmuch as instalments could not be continued and the cattle were returned to the vendor.

Decrease in the price of cattle.—The fall is about 80 per cent. on free sale in both divisions. The price on forced sale is usually from two-thirds (Meerut) to three-fourths (Rohilkhand) of the price obtained on free sale.

Question V.—Position and attitude of lenders.—General conclusions are that, if fully repaid, lenders will now lend up to 50 per cent. of what they lent before; if not fully repaid, they will lend very little indeed.

Of classes of lenders, tenants and village banias appear to be the worst hit by bad collections. *Sahukars*, though badly hit, are more unwilling than unable to lend, as compared with other classes of lenders.

Zamindars are badly hit, except zamindars who lend to their own tenants. The latter are willing enough to lend: the tenant is in their power, and they still find the prospect of ejecting tenants and disposing of vacated land attractive. Such money-lending zamindars are common in Dehra Dun and Muzaffarnagar, and frequent in Saharanpur, Bijnor and Budaun.

Kistwalas are of two kinds:—(a) Moradabad *kistwalas* who lend in several districts adjacent to Moradabad. They have restricted loans as they suffered losses; but less than the classes mentioned above.

(b) Of *peripatetic lenders* of the Kabuli and Punjabi (cloth-selling) type, reports are that they have lost very little, are still extending business, and are as much feared and disliked as ever. There is some danger of cultivators resorting to them who would never have done so in ordinary times.

Co-operative societies have suffered in Moradabad, Meerut and Bulandshahr, but in Bijnor and Dehra Dun have done well and have risen in esteem since the fall in prices, owing to marked contrast with the attitude of other lenders.

Question VI.—Terms for loans.—In Meerut, a rise in rates of interest is reported in 40 per cent. of the inquiries; in Rohilkhand, in only 20 per cent. The amount of security has increased generally from 1½ to 3 times of former requirements. One-third of the inquiries report greater demands as to sureties. One-fifth report that the practice of taking blank stamped papers, or of recording as lent some 25 per cent. more than was lent, is prevalent, and on the increase.

It is reported that 80 per cent. of loans which were formerly *dastgardan* are now recorded by pro-note. There is also a tendency to substitute registered documents for debts which were formerly pro-note debts.

More ornaments have been sold and pawned than formerly; the evidence is indefinite, and the practice not general.

Question VII.—The amount of land lying fallow for want of ability to cultivate is trifling. Cases of serious privation are reported only in 7 per cent. of the inquiries. These are found usually in respect of a few families only. Loss of land appears to be

very rare, though a few villages disclose considerable loss and migration by low castes.

Question VIII.—Retention of produce by the producer.—

Division.	Less than before.	As before.	More than before.
Meerut ..	65 per cent.	8 per cent.	27 per cent.
Rohilkhand ..	90 ..	2 ..	8 ..

In Meerut division it is fairly clear that those who had no hope of getting further loans retained more than usual of their produce; particularly Jats.

Question IX.—Failure to find a market for produce occurred in only 3 per cent. of villages, and that to a very small extent.

Question X.—Compromises between lenders and debtors have been common in only 4 per cent. of villages, and none at all was reported from three-fourths of the villages. Allowance must be made for the secretiveness of lenders, who are very reluctant to disclose any such transaction, lest it be used as a precedent; and for variation in the industry of, and time available to, inquirers.

The terms vary, but indicate a disposition to compromise for less than capital due, in the case of really bad debts; usually for the sake of some immediate substantial payment—e.g., valuable milch-cattle; at the other end, there is a disposition to reduce past and future interest to reliable clients who show signs of becoming *na-dehand*.

Question XI.—Attitude to a scheme of conciliation and composition.—

	Meerut. Per cent.	Rohil- khand. Per cent.
(1) Definite general opposition..	2	2
(2) Lenders entirely oppose while borrowers welcome ..	18	25
(3) Lenders would agree, with safeguards and reasonable conditions ..	65	50
(4) Both lenders and borrowers definitely welcome ..	15	23

The conditions usually cited are :—

Borrowers.—The instalments must be such as they can expect to pay, and fixed according to harvest; past interest should be reduced; there should be no, or else reduced, future interest.

Lenders.—Punctual payment of instalments is essential, there must be a penalty for default. A lesser number insists on (a) return of the capital in every case, (b) strict limitation of the number of instalments, (c) special facilities for collection, on default of payment of a reasonable instalment.

Question XII.—Suggested remedies.—Any which are worth practical consideration come under one or other of the heads suggested for consideration by the Debt Committee. Some form of conciliation by fixing reasonable instalments is suggested in 50 per cent. of replies; limitation of interest by law in 25 per cent. No other suggestions find frequent repetition.

B.—LONG-TERM DEBT.

Question XIII.—Repayments and renewals:—

Division.	No debt exists.	Repayments where debt exists.				
		Nil.	Up to 10 per cent.	Up to 25 per cent.	Up to 50 per cent.	Over 50 per cent.
Meerut ..	7	28	34	17	7	7
Rohilkhand ..	5	13	30	28	19	5

Very little renewal is reported. When renewal does occur, it is usually on a substantial advance in the rate of interest and a rise of 100 per cent. in the security. Clearly the prospect of acquiring a debtor's land still has much attraction for a creditor.

Question XIV.—Steps to enforce payment.—In Meerut the law has been put in motion in 35 per cent. of the villages reported on; in Rohilkhand in only 7 per cent. But so far, processes have been pushed home to final ejection of landholders in less than 5 per cent. of cases where such proceedings were initiated in 1931.

Question XV.—Compromises have been very rare. The reason for this rarity, where given, is chiefly that lenders are unwilling. They want the land, which, at the worst, is a good "lock-up" investment.

Question XVI.—Changes in the terms for loans.—In Meerut there is a rise (averaging 50 per cent.) in the rate of interest in 40 per cent. of cases. The requirements in security have generally doubled. In some 10 per cent. of cases no change is reported.

In Rohilkhand.—There is a rise (averaging 25 per cent.) in the rate of interest in about 25 per cent. of cases. The requirements in security have risen about 75 per cent. in 65 per cent. of cases. In some 40 per cent. of cases no change is reported.

Question XVII.—Sale of land.—In Meerut 10 per cent. of inquiries report a rise in sale, in Rohilkhand, 20 per cent. The rest report no rise, or else an actual fall, in sales.

It is clear that voluntary sales are much less, owing to lack of buyers. This in turn is due to lack of capital; uncertainty as to prices; the greater protection given to expropriated tenants since 1926; etc.

The main vendors are, Jats, Tagas, Gujars, Rajputs, Muslims (Meerut); Rajputs, Ahirs, Gujars, Sains, Brahmans, Muslims (Rohilkhand). The main purchasers, in both divisions, are decidedly Vaishyas, mainly money-lenders, Brahmans and Jats follow,—at a great distance.

Question XVIII.—Desire for restrictions on the sale of land.—Meerut division.—Eighty-five per cent. of replies disclose a desire (usually very strong) for such restrictions on the part of the vendor-classes above mentioned. Ten per cent. of the replies say that proprietors

are indifferent. Five per cent. say that they oppose the idea.

Rohilkhand division.—Fifty per cent. of replies disclose a desire for restrictions on the part of the vendor-classes above mentioned. Twenty-five per cent. of replies indicate indifference. Twenty-five per cent. indicate opposition by proprietors.

In both divisions non-agriculturists strongly oppose restrictions.

Question XIX.—*Suggested remedies.*—Whatever is worth discussion comes within the suggested agenda.

In Meerut.—Seventy-five per cent. of replies favour restriction on sale of land and satisfaction of debts by some form of usufructuary mortgage, lease, etc., for a limited period.

Twenty per cent. of replies favour a compulsory or voluntary composition scheme of settling debt and reducing interest without restrictions on the sale of land.

In Rohilkhand.—Twenty per cent. of replies favour restrictions on sale of land, etc.; 50 per cent. composition of debt and limitation of rate of interest; the rest mainly suggest expansion of co-operative societies, establishment of State banks, freer use of Court of Wards Act, etc.

II.—Allahabad and Agra Divisions.

Question I.—*Repayments of short-term loans* are according to qanungoes, nil in 18 per cent. of the villages inquired into; less than 10 per cent. in another 18 per cent. from 10 to 25 per cent. in 30 per cent. of the villages; from 25 to 50 per cent. in 20 per cent. villages and more than 50 per cent. in 14 per cent. of the villages. Roughly repayments are about 20 per cent. in the Agra and 30 per cent. elsewhere; while *renewals* average 30 per cent. The actual figures obtained by co-operative inspectors, however, show that only 8 per cent. of the total amount of outstanding was repaid as against 42 per cent. in normal times, and only 5 per cent. renewed.

Most of the renewals are on the same terms as before, though in some cases the rate of interest has been increased and in others the produce of fields has been hypothecated. Occasionally instalments have been made and in special cases the rate of interest has been lowered.

Recoveries of loans in kind are much better than those of cash loans.

Question II.—The qanungoes' reports show that *fresh loans* are half those advanced in normal times; but the actual figures of inspectors bring the figure down to 29 per cent.

Repayments are said by qanungoes to be half the amount of fresh borrowings and the percentage worked out by inspectors comes to 64.

The percentage of fresh advances to outstandings has dropped from 58 to 12. Outstandings themselves have increased by 40 per cent.

Where the rent has been worked out it is found that the loan outstanding is $2\frac{1}{2}$ times the rent. Certain inquiries in Agra show that 25 per cent. of cultivators are free from

debt; 30 per cent. have debts ranging from one to three years' rent; and 45 per cent. have debts exceeding three years' rents. The average loan owed to a non-agriculturist is higher than that owed to an agriculturist.

Question III.—The replies to this question are too general to enable us to draw any conclusions. All that can be said is that a number of cases are taken to court, perhaps more than before, but in many of these cases execution is postponed; when it is enforced the results are generally said to be unsatisfactory. It is mentioned that formerly lenders used to insist on mortgages of land, but now they do not, owing to the fall in the value of land. But the handing over of crops and cattle is not uncommon.

Question IV.—The number of cattle owned now is two-thirds of the previous number, 60 per cent. in Agra and 70 per cent. in Allahabad.

The hire system is not prevalent, but mutual borrowing is mentioned in several cases and appears to be on the increase.

The price realized on free sale is 60 per cent. to 70 per cent. of the former price, while that on forced sale is about two annas in the rupee less than the price on free sale.

Question V.—Reports of inspectors show that of the total amount owed 15 per cent. is due to tenants, 12 per cent. to landlords, 33 per cent. to resident money-lenders, 31 per cent. to *sahukars* and 9 per cent. to others. The figures given by certain qanungoes for Agra are 18 per cent., 32 per cent., 16 per cent., 28 per cent. and 6 per cent., respectively; it seems landlords take the place here of resident money-lenders to a certain extent.

Tenants are mostly unable to lend now, but many of them lend up to one-third of the usual amount. Landlords are also largely unable to lend. The capacity of resident money-lenders has also been considerably lowered, and now they can only lend up to one-third of what they used to lend before, while some are insolvent. Big lenders can lend, but are unwilling to do so and have adopted a policy of great caution. Peripatetic lenders have stopped their dealings completely in some places, but continue to flourish in others and advance to the extent of half the amount they used to do before.

Question VI.—Very few loans are advanced now. Those given to old and tried customers are usually on the same terms as before, but there is a marked tendency to increase the rate of interest and demand greater security.

In some places the *dasgirdan* system has practically disappeared, while in others it still continues. When entries are made in ledgers the practice of taking the signatures of borrowers thereon is on the increase. All are agreed that pronotes are taken much more now than they used to be, and in some cases personal security, preferably that of the zamindar, is asked for.

The pawning and sale of household articles is on the increase and is due in part to lack of money and in part to the high price of gold and silver at present. From Agra there is a complaint that all the articles have already

been pawned and there is now nothing left for the purpose.

Question VII.—Broadly speaking land did not remain fallow for lack of capital, though stray cases are mentioned. These may be due more to high rents than to actual lack of capital. It is quite definite, however, that on the Agra side in a number of cases the cultivators had to sow cheaper crops which did not require much outlay and capital. Instances of tenants having abandoned their cultivation are very few; but in a number of cases they have handed over their land temporarily to the lender and now work as labourers or sell fodder, etc. Cases are also mentioned of persons being unable to purchase cloth, while expenditure on ceremonies has had to be cut down very considerably.

Question VIII.—The majority of reports said that there was not enough produce and therefore cultivators could keep much less than usual. This is borne out by the inspectors' inquiries which estimate that not more than one-third to one-half of the normal amount of grain was stored. Quite a number of Reports, however, state that about 25 per cent. more grain was kept than usual.

Question IX.—All are agreed that there was practically no difficulty about the sale of produce. The only point mentioned in some reports is that the usual itinerant *baniyas* did not go to villages, the villagers had to take their grain for sale to the market themselves.

Question X.—Compromises are not general but have been made in a number of cases, chiefly when it is known that money will otherwise not be recovered. The terms of these compromises vary according to the capacity of the debtor to repay. In many cases instalments have been given and amounts both of principal and interest have been written off, land has been handed over in lieu of debt, bullocks and carts have been given up, etc. Compromises are more frequent on the Agra side, while elsewhere extensions have been given. Quite a number of reports definitely mention that the instalment system has not been a success and the lenders complain that the instalments have not been paid in time.

Question XI.—It would appear from the reports that borrowers expect that when fixing instalments part of the interest should be remitted and the rate of future interest should be lowered. Lenders on the other hand insist that they must have some security for punctual repayments of their dues, and suggest penal action such as charging a higher rate of interest, cancelling instalments, etc., in case of failure.

It is also mentioned that lenders are more than willing to compromise where there is a co-operative society, as they know that the debts of the latter will have preference.

Question XIII.—Repayment of long-term loans are generally very small. In 58 per cent. of the villages inquired into they are nil; in 16 per cent. they are less than 10 per cent. of outstanding; in 14 per cent. they are from 10 to 25 per cent. of outstanding; in 6 per cent. they are between 25 to 50 per cent. and in another 6 per cent. they are more than

50 per cent. of outstanding. Renewals are resorted to only in order to evade limitation. Usually the renewal is at the old rate of interest, but sometimes it is increased. Quite often greater security is demanded, in the shape of mortgage either of landed property or of movables, particularly ornaments. Occasionally the rate of interest has been reduced, particularly when additional security has been taken.

Question XIV.—Action in court has not been resorted to generally. The sale of land in execution of decrees is not common, but sale of crops and movables is resorted to a larger extent. Most of the reports indicate that execution proceedings were not successful.

Question XV.—There are very few compromises in long-term loans.

Question XVI.—Most reports show that there is no change in the terms but point out that loans are practically unobtainable. Others state that the rate of interest has been increased and the security demanded is doubled. A loan is now advanced only to the extent of half the estimated present value of the land, which in its turn is about half the former value, while formerly loans were advanced up to three-fourths of the value of the land. In other words borrowers can now only get Rs. 25 from the same land from which they could formerly get Rs. 75. It is also pointed out that land is no longer regarded by money-lenders as good security and in many cases they prefer ornaments to be mortgaged with them.

Question XVII.—The free sale of land is said not to be increasing, chiefly because there are no purchasers. In many cases money-lenders were forced to purchase the land though they did not want to do so, as no one else was prepared to purchase it. Jats on the Agra side and Thakurs and Muhammadans elsewhere are the chief vendors, while Vaishyas and to some extent Brahmans are among the main purchasers.

Question XVIII.—Almost all lenders are strongly opposed to the Land Alienation Act being introduced: the views of the borrowers seem to vary; the majority would like its introduction, particularly where there are Jats.

Questions XII and XIX.—The majority of the reports of qanungoes are in favour of—

- (i) reducing the rate of interest where it is exorbitant;
- (ii) fixing instalments for repayments in accordance with the profits;
- (iii) mortgaging the land for a fixed period;
- (iv) giving tenants the right to sub-let, mortgage and partition their holdings; and
- (v) introducing co-operative societies.

III.—Benares and Gorakhpur divisions.

Question I.—According to qanungoes' reports repayments for the Benares division are about 40 per cent. and renewals 15 per cent., the remaining 45 per cent. has accumulated. For the Gorakhpur division the figures respectively are 35 per cent., 10 per cent. and 55 per cent. The actual figures obtained by co-operation

inspectors for Benares and Gorakhpur are about 30 per cent., 15 per cent., and 55 per cent.

The terms of the renewal are generally the same as before, compound interest being charged. It is only in rare cases that the rate of interest has been raised.

Recoveries of loans in kind are very much better than of cash loans.

Question II.—The reports of qanungoes' record that fresh loans are "much less" than those advanced in normal times; according to inspectors the figure works out at 40 per cent.

Repayments are said by qanungoes to be half, but according to inspectors, 70 per cent., of fresh borrowings.

Question III.—Both inspectors and qanungoes agree that the aid of the civil court to enforce payment has not been invoked to a greater extent. Creditors were generally satisfied with *taqizn* and handing over of crops and cattle by the debtors to the extent they could. The Kabulis, the Punjabis, and the Harias appear to have continued to harass the cultivator. They are going strongly in one of their favourite district Jaunpur.

Question IV.—The reports show that there has not been an appreciable fall in the number of cattle owned, except, of course, where they were carried away by disease, but they are reported to have deteriorated to some extent. The hire system is reported to be not prevalent but mutual borrowing is somewhat on the increase.

Cattle fetch now on free sale or forced sale only about 6 per cent. of the former price fetched respectively on those occasions.

Question V.—In the case of (a) *tenant lenders*, (b) *zamindar lenders* and (c) *local banks and petty non-agriculturist lenders*, it is said that their credit and capacity to lend have both been affected by agricultural depression, and they are not able to recover their loans to any great extent, and therefore their ability to lend has gone down to about one-third of what it was before. *Sahukars* and other large scale professional money lenders are unwilling to lend unless a higher rate of interest, and greater securities are offered to them. Peripatetic money-lenders do not appear to be worse off and are not unwilling to lend on pro notes.

Question VI.—Short-term loans are strictly confined now to old customers and are fewer, but the terms are the same as before.

Though the *dastgardan* system has not disappeared pro-notes are now taken much more than they used to be before.

The pawning and sale of ornaments have increased. It is complained that they do not fetch more than half the price they used to do before, chiefly because of the scarcity of money. It is also said that there is little left of them with the cultivator.

Question VII.—There is no complaint that culturable land remained fallow for want of capital, of seed, etc., but a large number of cases is mentioned where the cultivator had to sow cheaper or inferior crops which did not require much investment or necessitate

borrowing. Cases are also mentioned where sub-tenants had to give up their land on account of high rents or the debtors handed over their land temporarily to the lenders and now work as their labourers.

Cases where the cultivators had to go without the means of subsistence are few, but cases where they have to be satisfied with one meal a day are many. For want of sufficient money a number of weddings had to be postponed or performed at reduced expenses. Cases of insolvent cultivators and petty money-lenders are also mentioned.

Question VIII.—It is reported that cultivators could retain less of the produce as they had to sell a larger quantity to pay the rent; but in some cases about 25 per cent. more grain was kept than usual.

Question IX.—As a rule nothing remained for want of buyers; but reports from Basti and Benares state that potatoes rotted as markets remained unfavourable throughout for them.

Question X.—Compromises are not general, and the inquiring officials found it difficult to say whether they had been resorted to in increasing numbers. In cases where they had been made the terms were the same that they were usually effected on before, viz., letting off of a portion of the interest, or a portion of the whole accumulated amount, or payment by instalments. It is said that the lenders complain that the instalments are not paid in time.

Question XI.—Lenders and borrowers would generally welcome an instalment scheme on the following conditions:—

(a) Borrowers expect that part of the accumulated interest should be remitted and the rate of future interest appreciably lowered. (b) Lenders ask for some security for punctual payments of instalments. (c) Neither wants direct official settlement by officials, but want settlement by *panchayat*. By official interference lenders fear their dues would be greatly reduced, while borrowers think that lenders would refuse to disclose the actual amount lent, as in so many cases larger amounts have been entered in the pro-notes than were actually lent.

Question XIII.—In the case of long-term debt, repayments are much less than in that of short-term loans, and renewals or action in courts were resorted to only where the question of limitation had come in. The renewals were on the old rate of interest, but often with additional security. The percentage of those debts that accumulated without renewal is, according to qanungoes, 65 per cent. and according to inspectors 75 per cent.

Question XIV.—It does not appear that creditors sought to enforce payment to a greater extent than before. But the sale of land, crop or cattle fetched less price than it did before; and also there were cases of resistance to the attachment and sale of crop

Question XV.—Cases of compromises were negligible.

Question XVI.—The majority of reports say that there is no change in the rate of interest particularly in the areas round about cities; but all reports are unanimous in saying

that, the value of land having fallen, the security demanded is 50 per cent. more and sometime even doubled.

Question XVII.—The sale of land is not increasing, nor is sale by agriculturists to non-agriculturists increasing since the fall in prices. In certain areas of Gorakhpur it is said that Marwaris, having lost their trade to a great extent, are purchasing land. It is also said that outsiders are shy of purchasing village land. There is some unwillingness on the part of mortgagors to redeem usufructuary mortgages because of scarcity of money and fall in the value of land.

Question XVIII.—In many cases villagers do not understand the import of a Land Alienation Act. Speaking generally, however, non-agricultural lenders are opposed to its introduction while agriculturists' borrowers favour it.

IV.—Bundelkhand.

Question I.—Grain loans were repaid either fully or to the extent of at least 80 per cent.

Cash loans were repaid to the extent of 25 per cent. Banda is an exception with a repayment of between 40 to 50 per cent. It is explained that in that district there were large repayments on account of *taqavi*, and that 1338 Fasli harvests were good.

The renewals were to the extent of 15 per cent. in Jhansi and Banda, only a few in Hamirpur and about 40 per cent. in Jalaun. They were made after compounding interest with principal and treating the accumulated sum as a fresh loan mostly at the old, and in few cases at a higher or reduced rate of interest. Grain loans were renewed after converting them into cash and charging interest at Rs. 2 to Rs. 3-2 per mensem. The former is the commonest rate.

According to the inspectors, repayments were to the extent of 65 per cent. (including co-operative society loans) and 42 per cent. (excluding society loans).

Question II.—Grain loans were advanced to about the same extent as in a normal year. In Hamirpur, there were only a few instances in which new loans were much less than the amount usually granted; but the remaining two districts report that the new loans were much less. Repayments were generally less than the amount of new loans; but in Hamirpur, there are a number of cases in which they were larger.

Question III.—The aid of the civil court has been sought on a very small scale, and executions have generally been unsuccessful. Crops have not been attached, but cattle have been sold in a few cases.

Question IV.—The number of cattle has fallen, but it is explained that the fall is largely not of plough cattle. Cattle were sold for the payment of rent, *taqavi* and other debts; but cattle disease was prevalent in Jhansi and Hamirpur. According to co-operative inspectors, the fall is 16 per cent.

The system of hiring cattle exists on a very small scale; but where it exists, the number of hired cattle has increased.

District reports show that the price of cattle has fallen by 50 per cent. According

to co-operative inspectors, the fall is 27 per cent.

Question V.—The lending ability of all classes of money-lenders has diminished. Grain loans are, however, being advanced as usual and cash advances are easily made to tried customers.

(a) *Tenant lenders.*—Their ability has diminished and they are unwilling also.

(b) *Zamindar lenders.*—They advance grain loans largely. Their position is the same as that of tenant lenders.

(c) *Petty professional money-lenders.*—Their ability has also decreased; but they are more unwilling than unable to advance cash loans. Grain loans are being advanced as usual.

(d) *The bigger professional money-lenders* are reluctant to advance loans owing to smaller repayments.

(e) *Kistwalas* are doing their business more willingly than any other class of lenders; but they have also stopped lending in a few villages.

Question VI.—There has been no change in the rate of interest. Joint responsibility for loans is demanded.

Bonds are more in vogue now. But in a number of villages no change has been made in the system of *bahikhata* or *dastgardan*. According to the figures of the co-operative inspectors, loans were taken as follows:—

	Normal.	In 1931.
{ <i>Dastgardan</i> ..	21 per cent.	14 per cent.
{ <i>Ugahi</i> ..	..	1 "
{ <i>Bahikhata</i> ..	18 per cent.	19 "
{ Bond ..	61 "	66 "

Loans by bond have increased. *Dastgardan* loans have decreased. There is no change in others. The inspectors' figures deal with only five villages.

Gold ornaments are being sold more now. Banda explains that this is due to the rise in the value of gold. The pawning and sale of ornaments and household articles are increasing. But there are numerous villages in which there are no valuable ornaments, and therefore pawning and sale do not exist.

Question VII.—There has been no fall in the cultivated area except in three villages in Jhansi and three in Banda. The fall is due to lack of bullocks.

There is no lack of means of subsistence.

Question VIII.—Jhansi and Jalaun report that the quantity of produce retained was smaller than that in a normal year. Banda and Hamirpur report that in 50 per cent. of the villages, either more or the same quantity of produce was retained, as the cultivators were unwilling to sell at low prices.

Question IX.—There was no lack of-buyers.

Question X.—Jhansi reports that there are good many instances of compromise by instalments to be found in this district. Actual instances reported by Jhansi and the other three districts are however, only a few.

Question XI.—Borrowers would welcome an instalment scheme; but lenders are opposed

to it, unless payment of instalments is guaranteed.

Question XIII.—Long-term debts.—Long-term debts were repaid to a very small extent, Jalaun reports give figures dealing with debts amounting to Rs. 18,710. Repayments were only 17 per cent. According to inspectors, repayments were 25 per cent of the outstanding debts. The outstanding debts largely accumulated without renewal. Renewals were made mostly where the debts were becoming time-barred; and they were made after compounding interest with principal and generally keeping the rate of interest unchanged. In a very few cases, instalments were fixed on the condition that if any instalment remained unpaid, the debtors would become liable for the payment of the whole debt at once.

Question XIV.—Repayments by sale of cattle have been frequent. Civil suits have been filed in a very few cases; and no other special step has been taken.

Question XV.—Hamirpur reports that compromises for repayment of debts by instalments are common. Only one instance is, however, given in which a compromise for the payment of less than the capital and interest due was made. A few instances have been supplied by Jhansi also. No instance has been given by Banda, and only one, by Jalaun.

Question XVI.—The rate of interest has remained unchanged. The value of land has fallen. Higher security is now demanded.

Questions XVII and XVIII.—A Land Alienation Act is already in force in Bundelkhand.

V.—Oudh.

Question I.—The total amount of debt, according to the figures supplied by inspectors, has increased by 20 per cent. in a year and a half between July 1, 1930 and December 31, 1931, i.e., since after the fall in prices. The increase in short-term debts alone is 26 per cent.

Repayments in 1931 amounted to 33 per cent. of the outstanding debts at the beginning of 1338 Fasli.

Accumulations without renewals were 60 per cent. of the outstanding debt. Renewals were 7 per cent.

Renewals were generally made in those cases where the period of limitation was about to expire. Debts were renewed after compounding interest with principal and treating the accumulated sum as a fresh loan. The future rate of interest was commonly the same as the old rate. Instalments without future interest were fixed where the creditor realized that repayments were otherwise impossible.

Grain debts were repaid fully in most cases, and in no case was repayment lower than 80 per cent. What was not repaid was generally converted into and recorded as cash loans at the prevailing rate of interest, commonly Rs. 24 per annum.

Question II.—New loans were 44 per cent. below the amount of loans in a normal year.

Repayments were smaller in amount than the new loans. According to the

co-operative inspectors, the former were 40 per cent. below the latter.

Question III.—No special steps have been taken to enforce payment of outstanding debts. In a few cases civil suits have been filed and decrees executed, but the number of such suits does not appear to have risen after the fall in prices.

Money-lenders are waiting for the rabi harvest for the realization of their old loans.

Question IV.—The number of cattle of all classes has fallen; but the fall has been larger in other than plough cattle. The fall is largely due to the fall in prices. Normal wastage was not replaced; and in a number of cases, cattle were sold to pay the rent or to meet other expenses.

Estimates of the fall are 10 per cent. to 18 per cent.

Hiring of cattle is not common. Where it exists, the number of hired cattle is larger than before.

The system of mutual borrowing is reported to be common.

The fall in the price of cattle is about 30 per cent. The fall in cases of forced sale is about the same.

Question V.—Every class of money-lender has suffered in ability to lend.

(a) *Tenant lenders* have suffered more than others. They are as willing to lend as before; but they are very much less able.

(b) *Zamindar lenders* are lending to their tenants and labourers as usual. Otherwise their position is the same as that of tenant lenders.

(c) *Local banias* and petty non-agriculturists are more unwilling than unable.

(d) *Sahukars* and other large-scale money-lenders are less willing than resident money-lenders. They have, more than the latter, felt the difficulty in realizing old debts.

(e) *Peripatetic money-lenders* are in most villages doing business as usual. In a few villages, however, where repayments were very small, they have stopped business. And in a few other villages, they started business only in 1931.

Question VI.—Loans in grain are being replaced by cash loans. There is also a tendency for a larger number of grain loans to be recorded in cash.

On the whole the rate of interest is unchanged. The inspectors' reports classify loans according to the rate of interest charged. They deal with loans amounting to Rs. 33,33,846. Fifty-nine per cent of the short-term loans have been advanced at Rs. 2 per mensem, 23 per cent. at Rs. 3-2 per mensem, 14 per cent. at Re. 1-8 per mensem and 4 per cent. at a rate above Rs. 3-2 per mensem. The commonest rate is Rs. 2 per mensem and that was the commonest rate before the fall in prices.

A few villages report that loans are being advanced now for productive purposes only.

Grain loans are still being recorded in *bahikhata*; and *dastgardan* loans are still being advanced by small agriculturist or non-agriculturist money-lenders. There

is a rise in the number of loans taken by cultivators from their relations. These loans are always *dastgardan* and without any rate of interest. The professional money-lenders advance fewer cash loans without the execution of a pro-note or some other document. This change has been taking place for a number of years, since before the fall in prices, for the following reasons :—

- (1) A professional money-lender has sometimes to go to courts. In court *dastgardan* loans, the evidence of which is entirely oral, are difficult to prove.
- (2) Similarly, the evidentiary value of *bahikhata* is small.
- (3) When a *bahikhata* is filed in the court it is exposed to public view. A business man, specially one like the local *bania*, is against public examination of his accounts.
- (4) In any case, the production of *bahikhata* means its being kept in deposit for a certain period, during which the money-lender's business naturally suffers.

The co-operative inspectors have prepared returns showing the amount of normal loans, and of those taken in 1931. The loans have been classified according to the manner in which they were taken or recorded, i.e., whether taken *dastgardan* or on *ugahi*, and whether recorded in *bahikhata* or by bond (pro-note)

The result is as follows :—

		Normal loans.	Loans in 1931.
<i>Dastgardan</i>	..	.. 48 per cent.	41 per cent.
<i>Ugahi</i>	..	.. 15 "	19 "
<i>Bahikhata</i>	..	.. 81 "	8 "
Bond	..	.. 6 "	88 "

The professional money-lender has changed his system of *bahikhata* and advances a very much larger volume of loans by bonds. *Dastgardan* and *ugahi* loans, the former advanced mostly by petty agriculturists and non-agriculturists and the latter by peripatetic money-lenders have undergone little change.

More gold ornaments are being sold now generally because of the rise in the value of gold. Other ornaments and household articles are being pawned and sold in a larger number. There are, however, a number of villages in which there are no valuable articles to be pawned or sold.

Question VII.—A few instances of insignificant fall in the cultivated area are reported. On the whole, no culturable land remained fallow in 1931.

But there is evidence to the effect that the cropping has become poorer and that poorer crops are replacing the better ones.

There is no lack of means of subsistence. In Sultanpur, at any rate, the population has been better fed.

Question VIII.—The *rabi* harvest last year was poor, and *khari*/indifferent. There was therefore a smaller stock than in a normal year, from which the cultivators could

voluntarily retain a less quantity for subsistence or other purposes than usual.

Question IX.—A general opinion is held that last year more produce was sold by the cultivators on their visit to markets than to buyers in the villages. By the end of the year, the cultivators sold all they had.

Question X.—A money-lender fixes instalments for the repayment of a loan only when he is convinced that he will no longer continue lending transactions with the debtor. When such a settlement is made, it is generally for the payment of a sum equal to the principal and accumulated interest; and no future interest is charged. A portion of the accumulated interest is sometimes written off, but only in those cases in which past payments have already been equal to, or larger than the principal. In no case is a settlement made for a sum less than the principal. A number of instances of compromise by instalments have been reported; but such compromises are not common.

Question XI.—Debtors will welcome an instalment scheme if no future interest is charged; but lenders are reported, in most cases, to be against it. There are a few instances in which even the lenders accept the instalment scale on the condition that payments of instalments are guaranteed.

Question XIII.—*Long-term debts.*—Repayments of long-term debts were very small, the estimate for the whole of Oudh being 8 per cent. Most unpaid debt accumulated without renewal; and renewals were made in the case of those loans which were about to be time-barred. Debts were renewed after adding interest of principal and treating the accumulated sum as a fresh loan, at the rate of interest being usually the same as the old one. Sometimes mortgages were executed. There is no instance in which instalments were fixed.

Question XIV.—No special steps were taken in 1931. Instalments of civil suits and executions have been reported; but they do not appear to have increased in number. Most of the executions were unsuccessful.

Question XV.—A number of instances of compromise between indebted proprietors and their creditors have been reported.

Question XVI.—The value of land has fallen. Larger security is now demanded. There is no change in the rate of interest; but there is a tendency for it to rise.

Question XVII.—Transfers of land have not increased in the last two years.

The main classes of vendors in Oudh are Thakurs, Musalmans, Kayasths and Brahmans; and the main classes of purchasers, Vaish, Khattris, Rastogis, Brahmans and Kurmis.

Thakurs have a strong "clan" feeling, specially in Hardoi and Sultanpur; and are disinclined to sell their landed property to any one not belonging to their caste or sub-caste.

Question XVIII.—The consensus of opinion is against any restriction on the sale of land. There is very little support for a Land Alienation Act.

GOVERNMENT, UNITED PROVINCES.

REVENUE (A) DEPARTMENT.

Dated Lucknow, February 15, 1932.

COMMUNIQUE.

It will be remembered that in December last the Legislative Council recommended that Government should appoint a Committee to investigate methods of relieving agricultural debt. The Committee appointed in pursuance of the Council's resolution consists of seventeen non-official members of Council and other representative land-holders, lawyers, bankers and members of the Universities. The official members include the Finance Member (Chairman), the Registrar and Deputy Registrar of Co-operative Societies, the Settlement Commissioner and two officers with settlement experience.

The Committee held preliminary meetings on January 30 and February 1, and considered the situation as it has developed since the fall in prices, in the light of replies to a questionnaire involving summary inquiries into affairs in some 2,500 villages all over the provinces by local revenue and co-operative officials, and in some cases by members of the public. The replies, as might be expected, indicate that repayments of loans have greatly decreased, and the volume of outstanding debt has greatly increased. The amount of fresh credit available to borrowers is now only one-half to one-fourth of the amount usually available before the fall in prices.

The Committee informally discussed, and added to, a list of proposals considered worthy of investigation in the effort to relieve the situation. The suggestions made cover numerous aspects of the problem. Some of them would require legislation, and all require careful detailed examination of technical points, and of the effects which they would produce, if adopted.

The Committee, therefore, devoted its attention to proposals which might relieve the situation in the forthcoming *rabi*, leaving the wider aspects of the problem to be considered at length and in detail by sub-committees formed to examine sets of cognate proposals.

They recommended that Government might examine the possibility of adopting measures which would effectively enable debtor-cultivators to retain sufficient of the crop for subsistence and due cultivation of the land, at the same time satisfying the reduced revenue or rents, and reasonable demands for debt repayment. The Committee welcomed the idea of attempting, by conciliation boards, committees, or *panchayats*, to settle the enormous burden of outstanding rural debt on terms which would take account of the fall in prices since the debt was incurred, and of the debtor's incapacity to repay on the scale in force before prices fell.

Government will take into consideration these recommendations of the Committee, and, if legislation is required, will lay proposals before the Council in due course

G. M. HARPER,

Secretary to Government,
United Provinces.

REVENUE (A) DEPARTMENT.

MISCELLANEOUS.

March 21, 1932.

No. 575/IA-93.—In exercise of the powers conferred by section 61 of the Code of Civil Procedure, 1908, the Governor in Council is pleased to declare that in the case of agriculturists one-third of a judgment-debtor's *rabi* crop of 1932 Fasli shall be exempted from liability to sale in execution of a decree, for the purpose of providing until the next harvest for the due cultivation of the land and for the support of the judgment-debtor and his family.

H. A. LANE,

Secretary.

REVENUE (A) DEPARTMENT.

MISCELLANEOUS.

March 21, 1932.

No. 576/IA-93.—In supersession of notification no. 1887/I-238, dated October 7, 1911, and in exercise of the powers conferred by section 68 of the Code of Civil Procedure, 1908, the Governor in Council is pleased to declare that, with effect from April 1, 1932, the execution of decrees in cases in which a civil court has ordered any agricultural land situated in the United Provinces of Agra and Oudh or any interest in such land to be sold, shall be transferred to the Collector.

H. A. LANE,

Secretary.

No. 616/IA—

FROM

H. A. LANE, Esq., C.I.E., I.C.S., M.L.C.,
SECRETARY TO GOVERNMENT
UNITED PROVINCES,

TO

ALL DISTRICT OFFICERS
IN THE UNITED PROVINCES.

Dated Allahabad, March 24, 1932.

REVENUE (A) DEPARTMENT.

SIR,

I AM directed to say that a notification under section 68 of the Civil Procedure Code, declaring that all decrees in which agricultural land has to be sold should be transferred to Collectors, is under issue. Certain cases of hardship have been brought to the notice of Government in which ancestral property has been sold at very low and unfair price. Four such instances are quoted below:—

- (1) a parcel of 22 acres was put up to sale and bought for Rs. 18,
- (2) a property for which an offer of Rs. 80,000 was refused in 1929, sold for Rs. 35,000 in 1931,
- (3) a property with a rent roll of Rs. 1,300 sold for Rs. 7,000 in 1931, and
- (4) the highest bid for a property, valued by the Collector at Rs. 62,000 was Rs. 36,000: the amount of decree money to be satisfied was Rs. 56,000.

2. I am therefore to ask you kindly to keep a careful watch on such cases, and to adjourn sales when you are satisfied that the prices offered are unfair. The discretion to adjourn sales is vested in you by the provision of paragraph 10 of the third schedule of the Civil Procedure Code.

I have the honour to be,

SIR,

Your most obedient servant,

H. A. LANE,

Secretary.

No. 616-I/IA—

COPY forwarded to all Commissioners of divisions in the United Provinces, for information.

By order,

H. A. LANE,

Secretary.

SUB-COMMITTEE I.—(April 11 to 17, 1932.)

Subjects.	Members.
1. Agriculturists' Relief Act.	1. Mr. K. N. Knox (President).
2. Land Alienation Act	2. Rai Bahadar Pandit G. S. Upadhye.
3. Amendment of Agra Tenancy and Oudh Rent Acts.	3. Khan Bahadur Hafis Hidayat Hussain, M.L.C.
	4. Rai Bahadur Thakur Hanuman Singh, M.L.C.
	5. Nawabzada Muhammad Liaqat Ali Khan, M.L.C.
	6. Raja Sir Moti Chand, (Absent).
	7. Dr. D. L. Dutley.
	8. Mr. Wajahat Hussain, (Secretary).

SUB-COMMITTEE II.—(April 18 to 24, 1932.)

Subjects.	Members.
1. Usurious Loans Act.	1. Khan Bahadur Maulvi Fasih-ud din, M.L.C. (President).
2. Contract Act.	2. Rai Bahadur Awadh Bihari Lal, M.L.C.
3. Redemption of Mortgages.	3. Pandit Shree Sadayatan Pande, M.L.C.
4. Transfer of Property Act.	4. Sheikh Muhammad Habibullah, M.L.C. (Absent).
5. Insolvency Act.	5. Lala Madhusudan Dayal.
	6. Rai Rajeshwari Prasad, M.L.C.
	7. Sabu Jwala Saran Kothiwala, M.L.C.
	8. Rai Bahadur Surendra Pratap Sahi, M.L.C. (Absent).
	9. Deputy Legal Remembrancer.
	10. Mr. Wajahat Hussain, (Secretary).

SUB-COMMITTEE III.—(April 25 to May 1, 1932.)

Subjects.	Members.
1. Land Mortgage Banks.	1. Mr. P. M. Kharegat, (President).
2. Co-operative Societies	2. Mr. Brijnandan Lal, M.L.C.
3. Debt Redemption Societies.	3. Rai Bahadur Babu Jawahir Lal Sinha.

Subjects.	Members.
4. 'Better Living' Societies	4. Kr. Jagbhan Singh M.L.C.
5. Marketing.	5. Khan Bahadur Muhammad Ismail, M.L.C. (Absent).
6. Import Duties.	6. Khan Bahadur Saiyid Jafar Hussain, M.L.C.
	7. Thakur Muneswar Bakhsh Singh, M.L.C.
	8. Dr. R. K. Mukerjee.
	9. Professor S. K. Rudra.
	10. Rao Krishnapal Sin, M.L.C.
	11. Rai Sahib Lala Anand Sarup, M.L.C.
	12. Mr. M. L. Sah
	13. Mr. Wajahat Hussain, (Secretary)

SUB-COMMITTEE I.

Note for the Sub-Committee I on Relief to Agriculturists.

VARIOUS proposals for providing relief to agriculturists have come to the notice of the Committee and are set out below for discussion in this Sub-Committee. The proposals may be distinguished according as they are intended to provide permanent relief to agriculturist debtors or to meet the special situation brought about by what may be described briefly either as the fall in prices or as the rise in the value of money. Inquiries have shown that about 40 per cent. of the agriculturists are so seriously involved in debt that they are only a little better than the slaves of the money-lender; that another 20 per cent. obtain their working capital from him; and that about 40 per cent. are farming on their own capital.

The money-lender performs a useful function in agricultural society and has taken a very important share in financing agriculture in good seasons and bad; but the rates of interest are very high, and it is not a healthy condition for two-fifths of the cultivators to be inextricably involved in debt and to have their produce and their labour mortgaged for life, and perhaps for generations, to a third party. The danger has been brought into especial prominence and very much increased by the present cataclysmic fall in the value of agricultural produce. Just as it has been in the interest of the landlord to have the rents reduced to figures which are reasonable at the present level of prices, so is it in the interest of the money-lender that the loan contracts should be revised and reduced to what the debtors can reasonably be expected to pay. It is true that in ordinary times and in the case of parties who contract on equal terms, contracts are sacred and interference with them is likely to do more harm than good. But does this apply without qualification to the contracts under consideration? The value of money has increased suddenly by 50 per cent. An agriculturist who possessed property worth Rs. 2,000 and borrowed Rs. 500 finds that the value of his property has fallen to Rs. 1,000 and that he has to sell twice the amount of produce to pay back the loan; bankruptcy stares him in the face. When money ceases to be stable, it loses most of its value; and if it is not to give place to barter, equity cries out for

a revision of contracts which were made on the assumption that money was the most stable measure of value known to the contracting parties. In trade and in business men are accustomed to large gains and large losses, even at the present time brokers who sold forward and bullion dealers who held stocks of gold have made large profits, and to some extent, though the slump has hit all classes very hard, profits in one branch can be set off against losses in another. But where the agriculturist is up against the money-lender, the agriculturist has suffered an unmitigated loss owing to the fall in the value of agricultural produce, while the money-lender stands to gain something by the rise in the value of his money.

Apart from the particular crisis of the last two years, it is necessary to consider whether the agriculturist is in a position to make an equal deal with the money-lender. This question may fairly be raised without casting any reflection on the latter; he is not the villain of the piece; the local capitalist is a useful member of society and, as unprejudiced observers are aware, in many cases has deserved well of his clients in carrying them over bad seasons and times of difficulty. But it is common talk that agriculturists are falling deeper and deeper into debt; cash rents have become almost universal and cash has largely taken the place of barter in the village. Easy credit is not an unmixed blessing and has led many an agriculturist to his ruin. Many of the loans are advanced for unproductive purposes. Is it possible to devise means by which this credit should be limited; by which it should become difficult for the agriculturist to borrow more than he can repay; by which credit for productive purposes may be interfered with as little as possible, and the money-lender may be encouraged to continue his legitimate business, without reducing the less provident agriculturist to the status of a serf?

These are the aims of the present proposals. First, to provide some remedy for the crisis brought about by the fall in prices. And secondly to regulate the credit allowed to the agriculturists; to provide a curb to check him before he can involve himself inextricably in debt, and means whereby he can climb out of the morass in which he is floundering and make a fresh start.

To attain the first object it is proposed to provide for Conciliation Boards, and to instruct the courts to scale down debts incurred during the years of high prices. To attain the second object it is proposed to maintain the Conciliation Boards; to enact that any agriculturist debtor may sue for a statement of his account and for a decree; to limit decrees to what, after taking an account of his assets, an agriculturist can reasonably be expected to pay within four years; to compel money-lenders to keep separate accounts of principal and interest, and to supply every six months a copy of his account to the debtor; to transfer all decrees against agricultural produce to the Collector for execution; to abolish imprisonment for debt; and finally to limit future recoverable loans to a multiple of the recorded rent.

The above proposals are directed mainly to the assistance of tenants and small landlords.

Large landlords will benefit by the proposal to scale down debts, incurred during years of high prices, if this should pass into law. But in addition the Sub-Committee will be invited to record its opinion on whether it is desirable to enact a Land Alienation Act in the whole or in any portion of these provinces outside Bundelkhand, and if the answer is in the affirmative, whether the measure should be directed, as in the Punjab and Bundelkhand, to the protection of agriculturist landlords, or to the protection of all ancestral land, whether held by agriculturists or by non-agriculturists.

The Sub-Committee passed the following resolutions:—

I.—Agriculturists' relief measures.

Resolution I.—That Boards should be elected by the debtors and creditors of a convenient local area to try by conciliation to bring about agreements in regard to any debts owed by agriculturists, where the principal sum does not exceed Rs. 500. That such Boards should consist ordinarily of not less than three or more than seven *panches*, but that where desired the debtors and creditors may agree to appoint a single conciliator.

When in any local area a Conciliation Board has been elected, no civil court shall entertain any dispute coming within its province, until the Board certifies that it has tried and failed to compromise the dispute.

That a creditor and a debtor, in consultation with a Board, may appoint arbitrators to settle their dispute; that the agreement to refer to arbitration should be exempt from the payment of any fee, and should be valid if attested by the Board; and that the award of the arbitrators may be referred to the Board for attestation, and should after attestation be treated as a settlement effected by the Board.

It was suggested that before lists of creditors and debtors were prepared wide publicity of the fact of their preparation should be given in the local area concerned, and no objection raised by a creditor or debtor on the ground that he had no knowledge of the preparation of the lists or was omitted from them should be entertained by any court. It was agreed that the suggestion should be included in the rules.

Dr. D. L. Dubey raised the point that the benefits of the proposal should be strictly confined to agriculturists and should not be extended to agricultural labourers who, in his opinion, were better off than agriculturists and did not require special protection.

The Sub-Committee agreed that Rs. 500 should be the limit of the amount of the total principal debt owed by a debtor to all his creditors, which may be referred to a Board for conciliation.

It was suggested in the course of discussion that the number of members of a Board should ordinarily be five; and that in making a settlement the Board should always arrange payments by instalments.

Resolution II.—That an Act should be passed enabling an agriculturist debtor to apply to a court for a statement of his account and for a decree.

That in making up the account the court will reopen it from the commencement of the transactions; will prepare separate accounts for principal and interest; will allow simple interest only limited ordinarily to $1\frac{1}{2}$ pies per rupee per month, or $7\frac{1}{2}$ per cent. per annum, on secured, and to $2\frac{1}{2}$ pies per rupee per month or $15\frac{1}{2}$ per cent. per annum, on unsecured debts subject to the proviso that in consideration of the risk taken by the creditor these figures may be raised to $1\frac{1}{2}$ pies per rupee per month or $9\frac{1}{2}$ per cent. per annum and 3 pies per rupee per month or $18\frac{1}{2}$ per cent. per annum respectively.

That the court in passing the decree may order that it should be recoverable in instalments, with or without interest.

It was made clear that there should be no limit on the value of suits for account.

Dr. Dubey suggested, and was supported by Nawabzada Liaqat Ali Khan, that the rate of interest should be linked to the Bank rate which ultimately governs or should govern all loans. It was suggested that the rates of interest should be—

- (1) For secured loans—the average Bank rate for the year in which the loan was taken plus—
 - (i) ordinarily 40 per cent., and
 - (ii) in those cases in which the creditor has taken any unusual risk, 60 per cent.
- (2) Unsecured—Double the rate for secured loans.

(After calculation the rates of interest should be rounded to multiples of a pie.)

9 Resolution III.—That legislation should be undertaken to provide for the settlement of the unsecured debts of agriculturists, and that decrees should be limited to the amount which the debtor is able to pay within a reasonable period. That it should be enacted that on the application of an agriculturist debtor or on the filing of a suit against him for the recovery of a loan, the court will be required to hold a summary inquiry into his debts, his assets and his probable income and reasonable expenditure, and will grant a decree limited to the amount which this inquiry shows that he ought to be able to repay within three years (in the case of debts incurred after the commencement of the Act) and four years (in the case of debts incurred before the commencement of the Act); and will dismiss the balance of the claim or claims. The court will fix instalments for the recovery of the decreed amount, and these instalments will be timed to fall due along with some or all of the instalments of rent. Provided that if at any harvest the revenue and rent of the holding concerned be remitted or suspended for failure of crops and the instalment fixed under the decree be not paid, the court (or the Collector, if executing the decree) may extend the period of three (four) years to a subsequent harvest, but that the total of such extensions may in no case exceed a year and a half. Any portion of the decree not collected within the period fixed or extended for failure of crops will be irrecoverable at law.

The Sub-Committee while accepting this resolution recognize that it will not be effective unless the debtor is in a position to obtain the short-term capital which he requires during the period of liquidation: whether through the help of a co-operative society or as *tiquavi* or from some other source. The legislation proposed will not by itself provide a short cut to the liquidation of agricultural debt though it may enable the Co-operative department or Government to assist debtors to freedom which otherwise they would be unable to attain.

The Sub-Committee wanted to make it clear that the proposals did not apply to recoverable arrears of rent; nor to civil decrees passed before the commencement of the Act. It was suggested that when the Bill was drafted the words "unsecured debts" should be so defined as to avoid any ambiguity.

Resolution IV.—That all money-lenders, except Banks, Co-operative Societies and Companies which already are bound to maintain regular accounts, should be compelled to keep separate accounts, of principal and interest, and to supply a copy to every debtor at intervals of six months.

That failure to comply with the first part of the resolution should be punished by forfeiture of the whole or a portion of the interest, and by refusal of costs.

That all money-lenders—should be bound under penalty to give a written receipt for every payment.

That it should be made a crime to record in the accounts as principal a sum larger than that actually advanced, whether on the ground of charges for expenses or inquiries or *nazrana* or fines or renewals.

Resolution V.—That all decrees against agricultural produce, groves (outside Municipal or Notified areas) or agricultural land, if assessed to not more than Rs. 500 land revenue, will be transferred to the Collector for execution.

That no decree against agricultural produce may be executed at more than four harvests.

It was agreed that the rules which may be made under this proposal should empower the Collector to give usufructuary mortgage of the judgment-debtor's holding, provided that the landholder consents to the mortgage.

Resolution VI.—That no agriculturist should be arrested or imprisoned in execution of a decree of money.

Resolution VII.—That after the passing of the Act, the principal of a loan recoverable by a single creditor from an agriculturist will be limited as follows:—

Proprietor	...	Ten times the revenue assessed.
Under-proprietor, inferior proprietor, permanent tenure-holder or fixed-rate tenant.		Ten times the recorded rent.
Exproprietary or occupancy tenant.		Five times the recorded rent.
Any other tenant or sub-tenant.		Three times the recorded rent.

The Sub-Committee decided that the proposal should apply only to loans taken after the commencement of the Act.

Resolution VIII.—That in view of the sudden rise of approximately 50 per cent. in the value of money, the court in passing a decree against a landlord or tenant in respect of money loaned between January 1, 1917 and March 31, 1930, should be authorized to reduce the decretal amount, excluding costs, ordinarily by 25 per cent. but for stated reasons may refuse to reduce by more than 15 per cent., or may reduce as much as 33½ per cent.

The Sub-Committee agreed that the proposal should apply to a decree already passed but partly or wholly unexecuted, if it related to a loan advanced between January 1, 1917 and March 31, 1930.

Dr. Dubey urged for the restriction of the proposal to loans other than those advanced by a Bank or any other registered institution.

Resolution IX.—That no suit for money may be brought against an agriculturist except in the district where he resides or in the district where the money was paid to him.

That a loan taken in grain may be repaid with interest in the same kind of grain within twenty months at the option of the debtor.

Resolution X.—That the Sub-Committee recognize that their other proposals must give a serious shock to the credit system and that it is essential to take some measures to maintain the flow of credit; that to this end they would urge on the sympathetic consideration of Government that when debts have been reduced by a Conciliation Board or by a court to an amount which is within the capacity of the debtor to pay they should offer to advance directly or in conjunction with a Land Mortgage Bank or other institution the whole or a portion of this debt to the creditor, and recover the loan as *taqavi* from the debtor, the loan to be a first charge on the land or its produce after the payment of rent or revenue, as the case may be, and subject to leaving with the debtor what is required for his subsistence and the expenses of cultivation. Provided that the security is sufficient, such advances should be offered to the extent of whole or a part of the reduced debt in the shape of interest-bearing bonds.

Note on restrictions on the alienation of land.

The case for placing restrictions on the free alienation of land rests on the theories that the old landowning families on the whole understand a landlord's duties better than an outsider; that it is easier for them to maintain loyal and friendly relations with their tenants than a newcomer can do; that they are more congenial to existing members of landlord classes; and finally that landlords as a class desire to be protected in their existing possession from intrusion.

It must be recognized that these theories will be warmly opposed by certain critics. It will be argued that in many cases the purchaser is a better and more considerate landlord than the man he has ousted. It will be argued further that some individual purchasers

keep their tenants as loyal and friendly as any ancestral owner, though it is probable that only prejudice can close its eyes to the fact that, given individuals equally good or equally bad, the tenants have a weakness for the old master and a hostility towards a stranger. The stranger may overcome this hostility, but if so, he succeeds in spite of it not because it has no existence. The other two arguments can hardly be rejected, but the critics may describe them as irrelevant or as no concern of the State.

2. One method of restricting the alienation of land is to divide the community agriculturists and money-lending into non-agriculturists. The division into castes is accepted and certain castes are grouped as agriculturists. This is the method which has been followed in Bundelkhand and in the Punjab. The formation of such groups in the United Provinces outside Bundelkhand is a matter of difficulty. Money-lending is not a business which is restricted exclusively to any particular caste. Mr. Mudie has quoted instances of Brahmans and Rajputs who are large money-lenders in Agra. In Rae Bareilly one of the biggest money-lenders is a Thakur talukdar; and in Musafirkhana (Sultanpur) a Tewari Brahman has extensive money-lending business and is buying up petty Thakur proprietors. The question arises whether such money-lenders are to be classed as non-agriculturists. For if they are not, they will swallow up petty proprietors; and if they are, they will be penalized for their business acumen and enterprise. Then there will be a further question whether, once a family is classed as non-agriculturist, it will continue to be so classed permanently. If so, hardship might be caused to the descendants who need not necessarily be as good money-lenders.

Then there is the case of certain castes like the Kurmis who are nothing if not agriculturists, but who are at the same time the money-lenders to small proprietors. Kurmis are reported to be displacing such proprietors in Bara Banki. It is good from the point of view of cultivation if the new proprietors themselves cultivate the land thus acquired; but it is bad from the point of view of tenants, as, if the experience of Basti is any guide, Kurmis are bad landlords.

In this province, there are a number of families belonging essentially to non-agriculturist castes but nursed in the best landowning traditions. As an instance, the Vaish zamindars of Muzaffarnagar may be mentioned. It will be unfair to exclude them from the list of agriculturists. But if the Vaish is allowed to go on the list there is hardly any caste whose exclusion can be justified.

3. In view of the difficulties of grouping agriculturists by castes, I would suggest that restrictions should be placed on the alienation of all ancestral land. This I would define as follows:—

- (a) Land forming a mahal or share in or a portion of a mahal which has been owned continuously from the 1st of January, 1886, or for 50 years and at least by two successors to the proprietor who acquired it;

- (b) land conferred by the British Government as reward for the services to the State; or
- (c) the interest of a holder of grant or assignment of a land revenue conferred by the British or any other former Government.

(I have not attempted a definition for Oudh because, as the result of the inquiry made in the beginning of this year, I have come to the conclusion that there is no demand for a Land Alienation Act in Oudh.)

The protection will take the form of making sales of ancestral land invalid except when sanctioned by the Collector.

4. Should the prohibition extend only to sales ordered by courts or also to voluntary sales? Restrictions on voluntary sales offend against the existing ideas of freedom of contract. But in India unrestricted alienation of land does not exist. Under the Hindu law, joint property can be alienated validly only for certain respectable purposes; while the Waqf Act empowers a Muslim practically to entail his property. Besides these general laws, there are Settled Estates Act both for Agra and Oudh. They empower a big proprietor—and the power is commonly exercised—to declare his estate inalienable.

5. Another objection against restriction on voluntary alienations runs somewhat as follows:—

The vendor knows his interest best. He “presumably only sells his land voluntarily when he thinks that it is to his advantage to do so.” If the sale is without any outside pressure, there is no reason why any restriction should be placed on it. But experience shows that in a vast majority of cases, alienations are made either under pressure from the money-lender, or in indulgence of some weakness in the proprietor. In either case, in the general interest of the community it may be desirable for the State to prevent the alienation.

If voluntary alienations are allowed to be unrestricted, and restriction is imposed only on sales by order of courts, the benefit under the Act will be very small. Alienations by order of courts form a very small proportion of the total number.

This proportion will be further reduced by evasion of the law. The evasion will take the easy form of *farsi* sale-deeds executed at the same time as the loans are advanced. There is in fact the danger that unrestricted voluntary alienation may altogether nullify the Act.

It is true that restrictions on voluntary alienations will tend to keep land in the hands of inefficient landholders; but it must be remembered that the working age of an average man in India is about twenty years; and the inefficient management need not be permanent. The present owner's successor may be efficient. It is the duty of the State to safeguard the interest of the latter.

There is a further point to be noted. The unrestricted alienability of land encourages reckless borrowing. It seems proper that the power to borrow easily should be curtailed.

The one effective way of doing this is to reduce the security value of land.

6. It is admitted that there will be a number of cases of genuine alienation. Such cases should be provided for in the instructions issued to the Collector for his guidance in granting or refusing sanction to the sale of land. The instructions should be on the following lines:—

(1) On receipt of an application for sanction to the voluntary alienation of ancestral land the Collector shall publish a notice calling for objections within two months of the date of application.

(2) If the Collector is of opinion that the alienation is intended in fact to pay off debts, he shall publish a notice calling on all creditors of the estate to put in their claims within the period of three months. Any claim not presented within the prescribed period shall be deemed to have been satisfied. The Collector shall then offer to the creditors in settlement of all their claims a mortgage with possession for such period as he considers fair, not exceeding twenty years.

Should the Collector consider that he can make a better bargain for the ancestral landlord by sanctioning the sale of a portion of his property, he is authorized to do so, provided that the settlement covers all existing claims.

(3) No sanction by the Collector shall be interpreted to validate any sale which is void or voidable under any other law in force.

(4) If the Collector, after considering any objections presented in response to the notice under section 1 or otherwise, is of opinion that the proposed alienation is entirely voluntary and not induced by the pressure of debt, he shall accord his sanction.

If however any ancestral co-sharer in the mahal or village is willing to pay for the property the price which Government would have to pay, if it were acquiring it under the Land Acquisition Act, the Collector is authorized to sanction the sale in favour of such co-sharer, provided that he pays down one-fourth of the price within one week or such further time as the Collector may allow, and provided further that he pays the balance within two months of its being demanded by the landlord or by the Collector.

In sanctioning the sale to an ancestral co-sharer the Collector shall give preference to a relation of the landlord, who can show that they are descended from a common ancestor in the male line of descent, and subject to this condition shall give preference to an ancestral co-sharer in the mahal before an ancestral co-sharer in the village.

(5) If after such inquiry, as he deems fit to make, the Collector is satisfied that after the proposed alienation, the alienor will be left with inadequate means of subsistence for himself and his family, he shall withhold his sanction.

So far the question of sale has been considered. Mortgages of ancestral property should be dealt with on the following lines:—

(1) No usufructuary mortgage should be valid for a period longer than twenty years.

(2) The mortgage debt should be extinguished at the end of the period, not exceeding twenty years, for which an usufructuary mortgage is held.

(3) A mortgagor may redeem his property at any time during the currency of the mortgage on payment of the outstanding balance of the mortgage debt.

(4) Mortgages by way of conditional sale should not be permitted.

II.—Land Alienation Act.

Resolution XI.—The Sub-Committee agreed that—

(1) The Land Alienation Act should protect ancestral proprietors as such rather than agricultural castes from dispossession.

(2) The Act should be applied to Agra, Meerut and Rohilkhand divisions in the first instance, and should empower the Government to extend it to any other local area which may require protection in future.

(3) The scheme contained in the foregoing note that all alienations, voluntary or otherwise, should receive the Collector's sanction for their validity be accepted. Dr. Dubey dissented and was of the opinion that voluntary alienations should be allowed without any previous sanction but that the Collector should be given power to cancel them if he was satisfied that they had been made under pressure of debt. The rest of the Sub-Committee recognized that there were substantial objections to requiring the previous sanction of the Collector to voluntary alienations and to the attendant publicity, but felt convinced that nothing so far suggested, falling short of this, could prevent systematic evasion of the Act, turning it into a dead letter. Dr. Dubey admitted this danger, though he considered it less grave than the interference with the freedom of contract and promised to consider at leisure whether he could devise any means of overcoming it.

III.—Amendments of the Tenancy and Rent Acts.

Resolution XII.—That occupancy tenants should be given the right to mortgage their holdings to Land Mortgage or other Banks established under the Co-operative Societies Act, provided that in the case of foreclosure the Bank must vacate the holding after a period of five years from the date of occupation after the foreclosure.

Resolution XIII.—That a co-tenant should be given power to mortgage or sell his right in a holding to his co-tenant in that holding.

Resolution XIV.—That every tenant should have the right of occupancy in so much of his holding as does not exceed the size of an economic holding; and that the size of an economic holding should be determined for each district.

The proposal was discussed and on the whole the Sub-Committee was against it though it received the support of some members.

IV.—Miscellaneous

Resolution XV.—That no revision of settlement in any district should take place for the

next ten years, except in the case of alluvial mahals.

Rai Bahadur Thakur Hanuman Singh drew the attention of the Sub-Committee to the extortion and oppression practised by a class of peripatetic money-lenders and cloth-dealers and proposed that action should be taken to check them.

SUB-COMMITTEE II.

Resolution I.—Usurious Loans Act. Section 3.—The Sub-Committee passed the following resolutions:—

That the Usurious Loans Act should be amended as follows:—

(a) That the powers conferred by the Act on the court should be mandatory instead of being discretionary as at present.

(NOTE.—The relevant portion of section 3 reads as follows:—

"..... the court may exercise all or any of the following powers....."

The Sub-Committee recommends that the word "may" should be substituted by "shall".)

(b) That the Act should apply to a transaction when it appears to the court (i) that the rate of interest is excessive, or (ii) that the transaction was substantially unfair;

(c) That the amount of interest recoverable in any suit should not—

(i) exceed the amount of outstanding principal loan, excluding previous payments on account of interest made before the institution of the suit, where the loan was advanced before the commencement of the amending Act; and

(ii) exceed the amount of principal loan, including previous payments on account of interest made before the institution of the suit, where the loan was advanced after the commencement of the amending Act.

(d) That the rate of interest should be deemed excessive if it exceeds—

(i) in the case of loans advanced on the security of immoveable property, or pledge of moveable property—8 per cent.

(ii) in the case of all other loans—15 per cent.

Provided that where a creditor appears to have taken an unusual risk the rate of interest may be higher but should in no circumstances exceed—

(i) in the case of loans advanced on the security of immoveable property, or pledge of moveable property—11 per cent., and

(ii) in all other cases—18 per cent.

Rai Rajeshwari Prasad was of the opinion that the rate of interest should be deemed excessive if it was more than 20 per cent. above the highest rate at which a Government of India loan was raised.

(e) That the reference in section 3 (4) of the Act to section 4 of the Transfer of Property Act should be corrected by substituting section 3.

Resolution II. Transfer of Property Act.— That all usufructuary mortgages of land (excluding house property) should bear on the face of the mortgage-deed the date of the final extinction of the mortgage-deed and that the date should be within twenty years from the date on which the possession of the mortgaged property is conveyed ;

Provided that the amount of principal loan does not exceed one thousand rupees.

Pandit Shree Sadayatan Pandaya was of the opinion that the limit of one thousand rupees should be raised to ten thousand rupees.

Resolution III. Transfer of Property Act, section 83.— That provision should be made for the summary redemption of a mortgage on deposit by the mortgagor of the amount remaining due on the mortgage, by amending section 83 of the Transfer of Property Act on the lines of the draft given below.

Draft amendment of section 83, Transfer of Property Act.

At the end of the first paragraph *add* " and file an application verified in manner prescribed by law for the verification of plaints stating the particulars of the mortgage and praying for its redemption."

For the second paragraph *substitute* the following :—

"(2) The court shall thereupon issue a notice to the mortgagee to show cause on a day to be fixed in the notice why redemption should not be allowed.

If the mortgagee appears and accepts the deposit in full discharge of his mortgage the court shall order that the mortgage be redeemed and the money deposited by the applicant be paid to the mortgagee.

(3) If on the date fixed the applicant does not appear and the mortgagee does not accept the deposit in full discharge of the mortgage, the court shall reject the application.

(4) If on the date fixed or any subsequent date to which the proceedings may have been postponed, the applicant appears and the mortgagee does not appear in spite of service of notice on him, or the mortgagee appears and does not accept the money deposited by the applicant in full discharge of his mortgage or objects to redemption of the mortgage on any other ground, the court shall hold summary inquiry to determine whether the applicant is entitled to redeem the mortgage and whether the money deposited by him is sufficient. If it finds that the applicant is not entitled to redeem, it shall reject the application. If it finds that the applicant is entitled to redeem but must pay a larger amount than that deposited by him, it shall order the applicant to deposit the balance within a fixed period. If the applicant fails to deposit the said balance the court shall reject his application. If the court finds that the applicant is entitled to redeem and that the amount deposited by him was sufficient or that if it was not sufficient he has deposited the balance within the time fixed by the court, the court shall order that the mortgage be redeemed and the money deposited by the applicant be paid to the mortgagee.

(5) In all cases in which the court orders redemption under this section it shall, if necessary, also put the applicant in possession of the mortgaged property.

(6) When the application is rejected the court shall return to the applicant the money deposited by him.

(7) The party against whom a final order is passed under this section may institute a regular suit to enforce his right in respect of the mortgage, but subject to the result of such suit, if any, the order shall be conclusive.

(8) The word 'mortgagee' in this section includes the representatives of the original mortgagee "

Sahu Jwala Saran expressed the opinion that the proceedings in connection with the summary redemption of a mortgage should be held in the court of the Collector, or, in any case, in a court other than the one in which a regular suit for redemption or foreclosure would lie.

Resolution IV. Provincial Insolvency Act.— That the Sub-Committee recommends to Government to be pleased to reduce to half the cost of publication in the official gazette of all notices under the Provincial Insolvency Act.

Resolution V.— That the proposals of the Sub-Committee for the amendment of the Usurious Loans Act should be given effect to by legislation in the Provincial instead of the Central Legislature.

SUB-COMMITTEE III.

The Sub-Committee passed the following resolutions :—

Land Mortgage Bank.

Resolution I.— The Sub-Committee recommend that primary Land Mortgage Societies on the Ghazipur model be started at an early date in suitable areas.

Resolution II.— That steps be taken to organize a Land Mortgage Bank for the whole province on the lines given in the draft scheme ; and for this purpose a suitable prospectus be issued, and byelaws framed.

Resolution III.— That necessary legislation be undertaken for (a) permitting expropriatory and occupancy tenants to mortgage their holdings to the Land Mortgage Societies for a period not exceeding 25 years, the latter having the right to sublet the holding ; and (b) giving effect to the recommendation for the establishment of a Land Mortgage Bank, if necessary.

Resolution IV.— That the Sub-Committee record their thanks to Rai Sahib Lala Anand Sarup and Mr. Mohan Lal Sah for kindly undertaking to help the establishment of the Land Mortgage Bank by collecting one lakh and half lakh respectively, and suggest that other members of the Committee should also help by subscribing themselves and collecting money for the Bank ; and request Government to ask the Court of Wards, especially Balrampur, to subscribe to the shares of the Bank.

Co-operative Societies, Better-Living Societies, etc.

Resolution V.— That propaganda should be undertaken by non-official agency including

schools, colleges and universities to expound the principles of co-operation and better-living in villages, with a view to organizing and creating public opinion in favour of these activities which are for the mutual benefit of landlords and tenants, and for establishing Better-living Societies.

Marketing.

Resolution VI.—That a recommendation be made to Government to appoint one Marketing Officer on a salary of about Rs. 700 whose duties should be as follows:—

- (a) to explore the possibilities of finding markets for agricultural produce;
- (b) to issue market bulletins, and supply *mandis* with information about outside markets and the prevailing prices;
- (c) to furnish expert advice and guidance to Co-operative Sale Societies, and to help them by linking them with outside markets;
- (d) to promote the establishment of regulated markets at suitable centres and report on the lines on which legislation may be introduced for such purposes;
- (e) to undertake market surveys; and
- (f) generally to assist in the formation and work of Market Committees.

Resolution VII.—That a Market Committee including among others representatives of producers, traders and the Agricultural Department should be organized in each market and that every Committee should employ expert graders, in consultation with the Marketing Officer, for the principal crops in which the market deals.

Resolution VIII.—That a recommendation be made to Government to appoint five Marketing Inspectors under the Marketing Officer to assist and guide the Market Committees in grading, standardization, etc., and to help Co-operative Sale Societies.

Resolution IX.—That Co-operative Sale Societies should be organized at suitable centres for the purpose of storing agricultural produce belonging to their members, in village *kothas*, *khattis*, or licensed warehouses as seems best or as advised by the Marketing Officer; of advancing money, if necessary, on the security of the produce so stored; and for selling the produce with the advice of the Marketing Officer.

Resolution X.—That Government be requested to construct or ask the Railway administration to construct one model licensed warehouse as an experimental measure.

That Government be further requested to assist the establishment of licensed warehouses on improved lines by private agency, the warehouses being located at suitable places preferably in the vicinity of railway stations; and to pass necessary legislation on the lines of Mr. Madan's Bill to give effect to these recommendations.

Resolution XI.—That legislation be passed for standardizing weights (on the basis of the Bengal maund of 40 seers, each seer being 80 tolas) and measures; and

That Government be requested to institute inquiries through the Marketing Officer in co-operation with the Agricultural department with a view to fixing the standards and grades of agricultural produce.

Resolution XII.—That the attention of District Boards be invited to the unsatisfactory condition of minor and village roads; and that District Boards be directed by Government to earmark a certain proportion of their annual budget for contributing half the costs of the construction and repair of village carts tracks (*leeks*), the other half being met in the shape of village labour or by village subscription.

That in order to enlist village assistance for this purpose, propaganda should be conducted by officials as well as by District Boards, Co-operative Societies and other non-official agencies.

That District Boards should award every year one or more prizes to those villages which maintain their *leeks* in the best condition.

Resolution XIII.—That the attention of traders and lorry owners be drawn to the desirability of developing the traffic of agricultural produce particularly of fruits, vegetables and dairy produce, by motor transport; and Municipal and District Boards be asked to provide special facilities for the transport of agricultural produce by motor vehicles, by giving concessions in the matter of rates and taxes.

Resolution XIV.—That octroi duty and terminal tax should be levied at a uniform rate throughout the province.

Resolution XV.—That in view of the needs of the province in the present period of low prices, the question of lowering of railway freights and the grant of other railway facilities for the movement of agricultural produce, be inquired into by Government in consultation with the Railway Board (and the Marketing Board when established); and early steps be taken for the reduction of railway freights where necessary.

Resolution XVI.—That a Marketing Board be established for the following purposes:—

- (a) to bring about the co-ordination of various interests and activities connected with the marketing of agricultural produce;
- (b) to regulate markets;
- (c) to deal with the question of railway freights, etc.;
- (d) to make rules for regulating warehouses; and
- (e) to advise Government generally on all problems connected with marketing.

That the marketing Board should consist of—

- two representatives of the Provincial Legislative Council,
- three representatives of agriculturists,
- three representatives of Market Committees and Chambers of Commerce,
- one representative of the Provincial Co-operative Union,

two experts appointed by Government,
one representative of the Railways,
the Director of Agriculture,
two banking experts, one representing
Joint Stock Banks and one indigenous
bankers, and
the Marketing Officer (Secretary).

Resolution XVII.—That, in order to prevent agriculturists from being exploited and to enable them to obtain adequate benefits from the sugar duties, Government be authorized (by legislation) to fix at the beginning of each season the minimum price to be paid for sugar-cane in that season.

Resolution XVIII.—That Government should assist financially the establishment of at least one Co-operative Sugar Factory on the lines suggested by the Provincial Co-operative Union.

Resolution XIX.—That the Wheat import duty should be extended till such time as the economic depression lasts.

Draft scheme for a Provincial Land Mortgage Bank.

Organization.—There should be one Land Mortgage Bank for the whole province with its headquarters at Lucknow; in order to avoid delay it may be registered under the Co-operative Societies Act. It should advance loans to—

(1) District Land Mortgage Societies which will be established on a co-operative basis and whose membership will be open to small proprietors and tenants. Every Society will be a member of the Bank, and each member of a Society will also be enrolled, as a member of the Bank.

(2) Individual "bigger" zamindars who are shareholders of the Bank. (Efforts should be made to organize Land Mortgage Associations for the "bigger" zamindars; and when such Associations come into existence the Bank should advance loans to the bigger zamindars only through these associations.)

By "bigger" zamindars are meant those who apply for a loan exceeding Rs. 5,000, and pay Rs. 2,500 or more as land revenue or the gross annual profits of whose estate are Rs. 6,500 or more.

Capital.—The Bank should have an unlimited capital which will be raised as follows:—

(1) A capital of 25 lakhs will be raised by dividing it into 25,000 shares of Rs. 100 each known as "A" shares subscribed by the public Banks, Co-operative Societies, etc.

(2) "B" shares will be subscribed by District Land Mortgage Societies to the extent of at least 50 per cent. of their share capital.

(3) Each "bigger" zamindar will contribute 5 per cent. of the loan borrowed by him from the Bank. These contributions will be designated as "C" shares. "A" and "B" shares should be payable as follows:—

Twenty-five per cent. with the application, 25 per cent. on allotment and the balance in two calls as and when required.

"C" shares should be payable at the same time as the loans are advanced.

Besides the share capital the Bank may raise funds by—

(1) Debentures [which should be secured by mortgage of land executed by borrowers in favour of the Bank, or in favour of a District Society and the Bank. The debentures should be limited to about 50 per cent. of the value of land covered by the mortgages, and should not exceed 20 times the paid-up capital. The mortgage-deeds on the basis of which debentures are issued should be deposited with a public trustee, preferably with the Registrar of Co-operative Societies, who should have power to look into the accounts and satisfy himself from time to time that the value of the mortgaged property covers the value of debentures. His permission should be necessary before floating debentures.

(2) Deposits for not less than five years.

(3) The issue of savings certificates and loans, limited to a certain percentage of the total working capital.

Loans advanced by the Banks.—The Bank may advance loans only for the following purposes:—

(1) Improvement of land and methods of cultivation.

(2) Redemption of old debts.

(3) Purchase of occupancy right by statutory tenants.

(4) Purchase of proprietary right in his holding by a tenant.

No loan will be advanced unless it is secured by an adequate mortgage in favour of both the Society by which it is advanced and the Bank; and its amount and the period for which it is lent should be fixed with due regard to the repaying capacity of the borrower. It should, however, in no case exceed two-thirds of the value of the mortgaged property, and should not be for a longer period than 21 years in the initial stage.

In the case of a loan advanced by a District Land Mortgage Society (or a Land Mortgage Association when established) the borrower must produce one other member of the Society (or Association) as surety. It will be open to a Society (or Association) to require two sureties before advancing a loan.

If a borrower from the Bank or a Society (or an Association) encumbers the mortgaged property with a subsequent mortgage without the consent of the Bank or the Society (or the Association) the whole amount of the outstanding loan, with interest, should become recoverable at once.

If the borrower is a member of a joint Hindu family, all adult members of the family should be joined as mortgagors and enrolled as members of Society and the Bank.

The Society should exercise great caution in advancing loans to old and heirless tenants.

Proportion of loans advanced through the societies and to individuals.—The amount of loans advanced by the Bank to the District Society and to the bigger zamindars will be approximately in the proportion of 60 to 40;

provided that if there is not enough demand from one of these two categories, the surplus may be advanced to the other.

Recovery of loans.—(a) The repayment of loans should be by a system of equated instalments.

(b) Every mortgage-deed should include a clause to the effect that on the failure of the mortgagor to pay two or more instalments the Bank may take possession of or sell in whole or in part the mortgaged property.

(c) On any dispute arising between the Bank and the defaulter about taking possession of the property or its sale it will be decided by a Board of Arbitrators appointed and working under the Co-operative Societies Act which would give an award for putting the Bank in possession of the property or, in case the liabilities of the borrower to the Bank are not likely to be discharged by the usufruct of the mortgage, for selling the property in whole or in part.

(d) The bank should be empowered to lease the mortgaged property of a defaulter to a thekadar or to make it over to the Collector for direct management or for management by the Court of Wards.

(e) In case the defaulter opposes the entry of the Bank on the property, the Collector should, on the application of the Bank, execute the award of the Arbitrator.

(f) An award for the sale of the property would be executed by the Collector; all objections against sale proceedings should be heard and decided by him, and his orders should be final.

Special provision for exproprietary and occupancy tenants.—Exproprietary and occupancy tenants should be empowered to mortgage their holdings to a District Society for a period not exceeding 25 years, provided that the Society should be liable for the payment of rent to the landholder. The Society should be empowered to sublet such a holding for a period not longer than that for which it has been mortgaged by the occupancy tenant-in-chief; and the landholder's superior right should be recognized by giving him the first right to take the sublease.

Mesers. Mukerji, Brijnandan Lal and J. L. Sinha proposed that, in order to provide greater facilities for long-term credit and to prevent the risk of the Societies being saddled with the task of managing the property of defaulting tenants, exproprietary and occupancy tenants should be empowered to sell their holdings to or through a District Society. The same gentlemen and Mr. Rudra further suggested that the right of purchase of occupancy status should be granted to a statutory tenant provided that he is a member of a District Society and the purchase is recommended by the latter. These proposals were however not acceptable to the Sub-Committee.

Government assistance.—(1) Any share capital of the "A" class not taken up by the public, Banks, etc., within six months of issue should be taken up by Government with power to re-sell but not below par; provided that Government is not called upon to take more than 20 per cent. of the total share capital.

(Mr. Mohan Lal Sah suggested that in case it was not possible for Government to take up the unsubscribed portion of the share capital, it should guarantee the principal amount of debentures issued within the first fifteen years.)

(2) Government should guarantee a minimum dividend of 5 per cent. on the share capital.

(3) Government should guarantee interest on all debentures for the period of their currency.

(4) Government should assist the Bank in floating debentures and loans and in arranging underwriting.

(5) The debentures should be accepted as security in connection with Government contracts; and courts and other bodies which have a large amount of public funds at their disposal should be authorized to invest in the debentures.

(6) The debentures should rank as trustee security.

(7) The debentures and shares should be free of income-tax.

(8) The debentures should be negotiable.

(9) Certificates of encumbrances from Registration offices, and copies of land records should be issued free of charge.

Government supervision.—(1) Government should have representation on the Directorate of the Bank.

(2) The appointment of the manager of the Bank should be subject to the approval of Government.

(3) Government should examine the affairs of the Bank periodically.

Board of Directors.—The Bank should have fourteen Directors appointed as follows:—

Four to be elected by "A" class shareholders, from amongst those who hold shares of not less than Rs. 2,000.

Three to be elected by "B" class shareholders.

Two to be elected by "C" class shareholders.

One representative of the United Provinces Co-operative Association.

One representative of the United Provinces Legislative Council.

Two experts nominated by the Governor-in-Council for their knowledge of land problems and financial requirements of agriculturists.

The Registrar, Co-operative Societies.

Profits, dividends and reserve fund.—"A" shareholders will have preference over other shareholders in the matter of dividend, etc.

The Bank will be subject to all charges and taxes excepting those already mentioned. Its profits should be divided as under and in the following order:—

(a) Twenty-five per cent. to reserve until it equals paid-up capital.

(b) From the balance six per cent. should be paid as cumulative dividend on "A" share and thereafter five per

cent. non-cumulative dividend on "B" and "C" shares.

- (c) The remainder should after making due provision for a bad and doubtful debt fund and other funds of the Bank, be split up in two equal parts, one part to go to the Government and the other to be divided amongst "A," "B" and "C" class shareholders in such a manner that the percentage of additional profit on "A" is twice that on "B" and "C."

But no dividend should be declared if the Bank's obligation to the debenture holders remains unfulfilled or any amount is due to the Government in respect of their payment towards any guarantee.

Proceedings of a meeting of the Agricultural Debt Committee held at Brookhill Lodge, Naini Tal, on Saturday, July 2, 1932.

PRESENT.

Mr. K. N. Knox, C.I.E., I.C.S., *Chairman*.
 Rai Rajeshwari Prasad Sahib, M.L.C.
 Khan Bahadur Maulvi Fasih-ud-din Sahib, M.L.C.
 Khan Bahadur Saiyid Jafer Hossain Sahib, M.L.C.
 Rao Krishna Pal Singh Sahib, M.L.C.
 Khan Bahadur Maulvi Muhammad Obaidur-Rahman Khan Sahib, M.L.C.
 Mr. Brijnandan Lal, M.L.C.
 Rai Bahadur Babu Awadh Bihari Lal Sahib, M.L.C.
 Rai Bahadur Babu Jawahir Lal Singha Sahib.
 Pandit Shree Sadayatan Pande Sahib, M.L.C.
 Shaikh Muhammad Habib-ullah Sahib, O.B.E., M.L.C.
 Rai Sahib Lala Anand Sarup Sahib, M.L.C.
 Kunwar Jagbhan Singh Sahib, M.L.C.
 Dr. Radha Kamal Mukerjee.
 Mr. M. L. Sah.
 Mr. S. K. Rudra.
 Thakur Muneshwar Bakhsh Singh Sahib, M.L.C.
 Babu Madusudan Dayal Sahib.
 Sahu Jwala Saran Kothiwala Sahib, M.L.C.
 Mr. P. M. Kharegat, I.C.S.
 Dr. D. L. Dubey.
 Khan Bahadur Hafiz Hidayat Husain Sahib, M.L.C.
 Rai Bahadur Kunwar Surendra Pratap Sahi Sahib, M.L.C. (attended from July 3).
 Sir Muhammad Yakub, M.L.A.
 Rai Bahadur Babu Phul Chand Mogha.
 Rai Bahadur Pandit Gursewak Singh Upadhya Sahib.
 Mr. A. A. Waugh, I.C.S.
 Mr. Wajahat Husain, I.C.S., *Secretary*.

The Agricultural Debt Committee met at Brookhill Lodge, Naini Tal, on Saturday, July 2, 1932, at 11 a. m.

In the absence of the Hon'ble Mr. E. A. H. Blunt, C.I.E., O.B.E., I.C.S., Mr. K. N. Knox, C.I.E., I.C.S., occupied the Chair.

Chairman: Gentlemen, we have got a lot of business to get through and rather a large meeting. My instructions are that it would be desirable to proceed more or less on the lines on which we proceed in Council but I am afraid I am very ignorant of Council procedure. I do not think we should get any further if we discussed things indiscriminately. It will be necessary to put each resolution to the vote and for members to speak on each resolution. I do not think any speech need exceed ten minutes. I would ask you all to try and limit your speeches to ten minutes.

Hafiz Hidayat Husain: May I just inquire if the resolutions or the conclusions of this Committee will be considered finally by another sub-committee or that the resolutions will be decided according to the majority of votes taken here. What I submit is this, that this is a big committee and you have formed sub-committees of this big committee. Those sub-committees have come to conclusions embodied in the form of resolutions and put before us today. Certain objections have been taken to those resolutions and probably certain objections will be taken now: so that the procedure might be that those objections might be noted and a sub-committee might be formed later in order to consider them and then to frame out conclusions for being submitted to the Council: or in the affirmative the resolutions might be put to vote here and decided finally according to the majority of votes.

Chairman: Yes, I think they will be decided according to the majority of votes. So far as the Committee itself is concerned we can decide nothing. This Committee is hardly appointed to decide anything. It is rather appointed to inquire into the whole question and advise the Government and the Council. After that, as I understand, the Government will have to make itself responsible for any proposals, for any bill, which may be introduced in the Council, and the final decision will be for the Council. That is the position.

Dr. Mukerjee: In that case may I suggest that if resolutions are passed by a majority of votes in this Committee, and if there is a striking difference of opinion on matters of principle, that you will permit a disagreement or dissent being brought out not in the form of amendments, but in the form of notes, which may be appended to the resolutions? There are matters on which a striking disagreement of opinions has been expressed even in the sub-committees, and probably the Council will be helped better if, along with the resolutions which are passed by this Committee, we will also send in any minutes of disagreement, in case there is any striking difference of opinion.

Mr. Habib-ullah: I understand that the proceedings will be maintained and will be published. The deliberations of this Committee

will be in the form of resolutions. The proceedings will be there before them and the Council will know whether there have been differences of opinion, and they will see the decision of the Committee.

Chairman: I do not quite understand the honourable member's difficulty. There is a record being kept of the proceedings here, and if any member wishes to put in any written note, that will no doubt be embodied and published with the proceedings of this Committee.

Maulvi Fasih-ud-din: May I know, will it be published as a note of dissent?

Chairman: I cannot say, it depends on its character. It may be a note for information, or merely a note on certain points. That means it may or may not take the form of a note of dissent.

Maulvi Fasih-ud-din: Then I should like to know whether that member who has dissented from the decision of the majority will be permitted to cover the whole ground and discuss the whole affair or a particular point on which he dissents?

Chairman: I do not think there is a limit to his writing a note. It is a case of how many people will read that note.

Dr. Dubey: In order to avoid such long notes may I submit that all the criticisms and amendments may be put in two forms, one in the form of amendments, and the other in the form of criticisms. I think it will be better and more convenient if we are able to consider amendments and criticisms which are given by the members themselves, so that the chances of dissent will be much smaller in that case.

Chairman: I do not quite understand how you want it done. As far as this Committee is concerned, we had not time to print anything more, but after this it is proposed to print all the proceedings, no doubt including all the relevant notes, and to invite criticism. I think they will be published in the Gazette and criticisms will be invited from any one interested and then an official committee will consider what is practicable and finally it will presumably go before the Cabinet and they will decide what should be placed before the Council.

Dr. Dubey: Some of the criticisms that I have given should be more or less in the form of amendments. They are not here in the form of amendments, but in the form of criticisms. I would like some of them to be in the form of amendments rather than remain in the form of criticisms.

Mr. Sah: I should like to point out that criticisms were also invited and these should be published.

Chairman: They will be published eventually. In order to get the views of this Committee, one must have a definite resolution or a definite amendment, you cannot vote on general criticism you can only vote on a definite resolution or an amendment. I mean that in the case of a sub-committee some of the resolutions are rather long and not exactly in the precise form that would be required. But still general approval or general disagree-

ment with the resolution, I think, can be attained in each case.

Mr. Sah: In the case of sub-committee I, unfortunately the representatives of money-lenders could not be present, so that the recommendations of this sub-committee are more or less on one side. May I request that all the papers and materials placed before the sub-committee should be supplied to the members and the discussion of the resolutions of sub-committee I, may be postponed till tomorrow. In the meantime we may take up sub-committees nos. II and III.

Chairman: I am sorry, but there really is no time. I am afraid we must take it up today.

Mr. M. L. Sah: They are very important matters and views have been received from collectors and these also may be supplied to us.

Rai Sahib Lala Anand Sarup: I also support Mr. Sah. These opinions were called for the help and guidance of the Committee.

Mr. Wajahat Husain: I am afraid we did not get them for the guidance of this Committee.

Babu Madhusudan Dayal: In such an important subject, if we come to any conclusion in haste, I think it will be very bad for the province. We are departing from certain principles. The most important principle is that of reducing the principal, which is a principle which has never been attempted in any part of the world up to this time. When the whole world, Germany, France and America are considering the question of war loans, we in the United Provinces are considering the reduction of the principal (money) rather than the interest. It is such a subject that has never been touched in any part of the world. I submit that the proceedings of sub-committee no. I are such that we must not come to any conclusions in such haste. For these reasons I submit that we must consider them later and take up the recommendations of sub-committee no. II or sub-committee no. III first.

Maulvi Fasih-ud-din: I oppose this proposal. I do agree that some of the recommendations of this sub-committee no. I are such as would startle the creditors and make the capital shy, and I think that I will have to oppose some of them. But no reason whatever has been shown for postponing the consideration of the resolutions of this sub-committee. We are all here, we have enough time to consider these resolutions and I do not think there is any point in postponing them for a day or two; we will not gain anything by this postponement. In fact I think that the resolutions of sub-committee no. II are equally important and some of them are more important. So the fact that these resolutions are important, and therefore their consideration should be postponed, should apply equally to effect a postponement of resolutions of sub-committee no. II of which I happen to be the chairman. I look upon them to be more important. I fully realise the objection which has been raised by Mr. Madhusudan Dayal that some of the resolutions are of very drastic nature, but we can

discuss them here easily and can come to a definite conclusion about them. There is no point at all in getting them postponed.

Chairman: The point I would make is that at present we are really more ventilating the question than anything else. There will be plenty of time for anybody to send in any reasonable criticism afterwards. The decision will not come until we go before the Council. We are not taking a hasty decision here. We are only taking the views of the Committee.

Mr. Rudra: I should like to point out that if things are drastic there is no reason why they should be postponed.

Chairman: We are only trying to get the views of the members on these various proposals before them.

Mr. Brijnandan Lal: Shall we be allowed to bring fresh amendments in addition to those of which notice has been given.

Chairman: Not as a rule. We have got these printed and it will take all our time to get through all the amendments on the table. Of course I have got discretion to admit an extra amendment, but generally speaking I propose to keep to the amendments that are down here. Again we are not deciding a thing finally in the sense in which Council would decide it. We are not passing any law. It would be quite easy to say that you turn down the resolution or you accept it, subject to certain reservations, which you can make in your speech.

Mr. Habib-ullah: I do not think admitting a fresh amendment will be absolutely against the procedure. This is an advisory committee.

Chairman: I will take up any proposal which comes up on its merits. I do not think it will help us to have any amendment sprung on us suddenly. We are not deciding anything. It is open to a member to say if he supports or opposes a resolution with certain reservations.

Mr. Habib-ullah: These amendments are not amendments practically. They are merely suggestions.

Chairman: Some of them are amendments.

Babu Madhusudan Dayal: In your covering letter the word 'or' was put down, it should have been 'and'. It said 'any criticism or amendment' instead of 'any criticism and amendment.' If you wanted amendments to come you should have put down the word 'and' there. It kept me in the dark. I thought I might send in my amendments at the very moment of discussion.

Chairman: In any case I am not ruling out any amendment at the present moment. I have only said that as a principle of practical business, in considering what we are doing I think it would lead to a more satisfactory despatch of business, and prompt despatch of business, if members will either support resolutions, subject to such reservations as they will make in their speeches, or oppose them.

I think we had better get on with resolution no. I. Will Mr. Wajahat Husain please read it out?

RESOLUTION I.

Mr. Wajahat Husain read out the following resolution: That boards should be elected by the debtors and creditors of a convenient local area to try by conciliation to bring about agreements in regard to any debts owed by agriculturists, where the principal sum does not exceed Rs. 500. That such board should consist ordinarily of not less than three or more than seven *panches*, but that where desired the debtors and creditors may agree to appoint a single conciliator.

When in any local area a conciliation board has been elected, no civil court shall entertain any dispute coming within its province, until the board certifies that it has tried and failed to compromise the dispute.

That a creditor and a debtor, in consultation with a board, may appoint arbitrators to settle their dispute; that the agreement to refer to arbitration should be exempt from the payment of any fee, and should be valid if attested by the Board; and that the award of the arbitrators may be referred to the board for attestation and should after attestation be treated as a settlement effected by the board.

Chairman: Mr. Anand Sarup has got an amendment. Does he propose to move it?

Lala Anand Sarup: I move that the board should see that the instalments are paid in time.

Chairman: Don't you mean rather that whoever is executing the decree should have this power or do you want the board to give the Collector power to execute the decree?

Lala Anand Sarup: It was suggested in the course of discussion that the number of members of a board should ordinarily be five; and that in making a settlement the board should always arrange payments by instalments.

Chairman: The decree would either go to the civil court or to the Collector. Do you want the board to bring pressure on the debtor to pay the instalments or do you want the court executing the decrees to do it?

Lala Anand Sarup: I think the court. If the instalments are not paid in time, they should be collected as land revenue and paid to the Collector.

Mr. Sah: I support Rai Sahib Lala Anand Sarup. In supporting this, I want to point out that it is no use having a conciliation board unless and until its decrees have got some effect. Its claims should have the same footing as that of a debt to the co-operative society. If this is done both the creditors and debtors will agree, otherwise it will be a farce. Another thing I want to point out is that it is not for the board to certify that it has failed to bring about a compromise. The board should be an arbitration board. There will be no necessity for the civil court to go into the merits.

Chairman: I do not think the board is an arbitration board. I do not think that is what the sub-committee proposes.

Mr. Sah: I would submit that it should be formed like an arbitration board rather than a conciliation board. It should try to conciliate and if it has failed to conciliate then it should arbitrate and its award should take the form of a decree to be executed by the civil court.

Chairman: Would Mr. Anand Sarup give us the exact words of his amendment?

Lala Anand Sarup: "The court executing will see that the instalments are paid in time and if not paid in time they should be collected as land revenue."

Babu Awadh Bihari Lal: This resolution is very incomplete. It does not say how the procedure would be started, whether it will be on the application of debtors or the creditors in a certain area that action should be taken; whether the debtors or the creditors themselves would be approached by the Collector? What would be the procedure of these conciliation Boards? For instance, so much debt has been written off, so much is decreed, and so much instalment is due. Would that be considered a decree and executed by the Court or would it be transferred to the Collector for execution?

Chairman: If the debtors say that they accept the proposal, of course they will have to provide that the decree will be enforced.

Babu Awadh Bihari Lal: I think that should come in the resolution. There was a suggestion that before lists of creditors and debtors were prepared wide publicity of the fact of their preparation should be given in the local area concerned, and no objection raised by a creditor or debtor on the ground that he had no knowledge of the preparation of the lists or was omitted from them should be entertained by any court. This suggests that the lists are prepared first. I think a definite procedure ought to be laid down whether these conciliation boards should be started on the motion of the Collector or on the application of so many debtors and creditors of a particular local area, and after that public notice should be given that all debtors and creditors have to declare their debts. After which these lists will be complete. So the resolution is very vague. It does not say how these conciliation boards will be started, and how those decrees will be executed.

Chairman: I think all that is wanted at the present moment is that the Committee should express its views as to whether they accept the general principle of conciliation boards. It will be for the Government to dot the i's and cross the t's, and then lay it before the Council for final decision.

Babu Awadh Bihari Lal: It is not only the t's and i's but the heads and tails also.

Mr. Habib-ullah: I think this resolution is absolutely general and only gives us a basis on which we should form the board. The rest I think will have to be done by those who legislate. All the differences that have been pointed out by my friend will be considered by those people who have to put it in the form of law or embody it in the rules, and so meet the

objections raised by my friends. Our point is only this, whether there should or should not be these conciliation boards. We can only talk about these boards. I think the formation of the board itself is not an easy task. We might find it one of the most difficult problems to form these boards in such a way as to make them effective and satisfactory. I have got very grave doubts myself about the formation of these boards; but then since it appears to be the approved view of so many sub-committees that the boards will be more useful. I am quite prepared to say, 'let us try'.

Mr. Brijnandan Lal: With your permission I want to make a few observations with regard to the resolution as a whole and then I will speak on the amendment no. 1.

Maulvi Fasih-uddin: On a point of order. The resolution as a whole is not before us, it is the amendment.

Chairman: Perhaps you had better confine yourself to the amendment.

Mr. Brijnandan Lal: Very well. As regards the amendment I submit that the award of these arbitrators will be a decree and that decree will have to be executed either by the civil court or by the revenue court. If it is executed by the revenue court and the decretal amount is to be realised as land revenue, the objections will have to be heard by the Collector or some revenue officer, and will have to be decided by him, that function cannot be delegated to the arbitrators or to the conciliation boards.

Dr. Mukerjee: I think that some members are extending the scope of the conciliation board further than was intended by the sub-committee.

Chairman: Can we get to this amendment? Has anybody got anything to say on the amendment itself.

Dr. Mukerjee: I am speaking about the amendment. The Committee intended that there should be some kind of agreement or conciliation as between debtors and creditors and recommended the establishment of a conciliation board. The conciliation board was never intended to supplant either the civil court or the revenue officer and if you will read the resolution you will find that this conciliation board may or may not appoint arbitrators. In other words, reconciliation might be reached without the appointment of arbitrators. Now the amendment of Mr. Anand Sarup suggests that the board should have more executive functions than is intended according to the resolution.

Chairman: Mr. Anand Sarup has changed that. It is no longer the board it is the court. His amendment now runs: "The court executing the decree should see that the instalments are paid in time and if they are not they should be recovered as though they were land revenue."

Dr. Mukerjee: My position is this. The circumstances of the country side are such that it will mean a great delay if a conciliation board with such cumbersome things as have been suggested is constituted.

Pandit Shree Sadayatan Pande: I fail to see how the proposal seeks to recover the money by realising it as land revenue. How many charges upon the man are to be realised as land revenue and how will that board administer the powers of recovering the money by the process of land revenue collections?

Mr. Habib-ullah: I oppose that part of the resolution which says that the money may be realised as land revenue. Land revenue is a prior charge, even prior to debt, and I do not think we will be right to accept all these loans as a prior charge such as land revenue is. I think when my friend will consider this he will himself withdraw his amendment.

Maulvi Fasih-ud-din: I entirely agree with Mr. Anand Sarup that there should be some provision for the realisation of the instalments when the instalments are not realised in time. But I certainly cannot agree that it should be realised as land revenue. I think this at least we might leave to the authority who drafts this Act, because as a matter of fact when the court fixes instalments in a certain case, the court also says in the judgment when the debtor fails to pay the instalment what should be the penalty and what will be the result of all that. So that will have to come in automatically. At present, as Shaikh Habib-ullah Sahib has said, we are discussing the principles and not the details, and for that reason I hope our friend Mr. Anand Sarup will withdraw this amendment of his.

Mr. Sah: May I suggest a via media between the two sides? My suggestion is that instead of collecting it as land revenue we should simply say that it should be a prior charge, or we should say that it should be on the same footing as rent.

Chairman: I do not think we can do that at present. That is merely another amendment to the amendment. That itself is rather irrelevant to the main resolution.

The whole point is whether the principle should be approved or disapproved and this particular detail is hardly relevant at all. It will have to be considered by whoever drafts the Act and it will have again to be reconsidered by the Council. Prior charge means nothing.

Mr. Sah: Of course the main idea is that it should be more secure than an ordinary debt.

Chairman: May I now put the amendment, gentlemen?

Dr. Dubey: I think it might be divided into two parts?

Lala Anand Sarup: I withdraw this amendment on the understanding that it will be dealt with by the man who drafts the Act.

(Amendment withdrawn.)

Chairman: Well then the general resolution is now open to discussion. Does anybody wish to make any further remarks on it.

Mr. Brijnandan Lal: I wish to draw the attention of the Committee to one or two

matters in connection with this resolution. My fear is that these conciliation boards may lead to unnecessary disputes and corruption, as is the case with some of the village panchayats. I think the idea of establishing these conciliation boards seems to be to avoid unnecessary expense and waste of time. This object can be achieved if special powers are conferred on the existing courts trying cases up to the value of Rs. 500, as for example exemption from court fees. The law can be changed so as to authorise these courts to exempt such suits from court fees, as well as to try these suits summarily in order to avoid unnecessary waste of time. I think that will be more efficient and people will have more confidence in these courts than they would have in the conciliation boards even if those boards try to do their work honestly. People against whom cases are decided will attribute all kinds of motives to these boards and they will be believed by some. The result will be that these boards will not command confidence and they will not be able to function properly because the chief principle is not only that courts should do justice but the people should also have confidence that they are doing justice. No body will believe the allegations against the courts, but when they are made against these conciliation boards they will be believed. What I would suggest is that further powers may be conferred on the existing courts so that suits may be exempted from court fees, and they may be able to try them summarily.

Mr. Habib-ullah: We are now discussing the real principle and my friend suggests that the principle of reconciliation should be abandoned altogether, while the courts should be given power, without charging any court fees, to entertain such applications and decide them on the merits. Well this is now a very important point as to whether we should attempt at the conciliation before litigation or whether we should start litigation at once. My friend suggests that we should start litigation at once on a cheaper scale and give up the idea of reconciling parties before attempting litigation. I was not present here at the other meeting, and I have already expressed my doubt as to the efficiency of the boards, but certainly if we start a thing of this kind, I think the conciliation board is a very good thing if we succeed in forming it, although I have expressed my doubts. I say that we must make an attempt at reconciliation before going to litigation. The form suggested by my friend is nothing but cheap litigation, but what we have been trying to do is to have nothing to do with litigation but reconciliation, so that people may know how to decide matters among themselves or by means of arbitration. If we give up this position then of course it might lead to other difficult problems, such as the loss of court fees, stamp duty and other legal income which the province now gets, and that may even raise the question of increasing the number of members of the judicial service and staff and things of that kind. In the circumstances, I think the suggestion made by my friend appears to be very impracticable and undesirable.

Thakur Muneshwar Bakhsh Singh: I wish to make an amendment with your permission

that instead of the words 'principal sum' the words 'principal with interest' be substituted in the third line.

Chairman: That is such a detail. The question is whether this Committee accepts the principle of conciliation board or does not.

Thakur Muneshwar Bakhsh Singh: In cases of debts where there is a principal of about Rs. 500, it will cover about 95 per cent. of debts and for that reason it will be a great task for these conciliation boards which I think they will not be able to cope with. That is one reason for my amendment. The other reason is that it is quite uncertain whether these conciliation boards will work satisfactorily or not and for that reason I would suggest that smaller sum should be fixed.

Chairman: I admit that as a case of principle, but I should suggest that your amendment should take the form of reducing Rs. 500 to Rs. 300 or Rs. 200, whatever you want.

Maulvi Fasih-uddin: I want to say just one thing. I think every one of us who is anxious to bring about a reduction in the enormous litigation will agree that these conciliation boards are needed and badly needed too. The only thing which I want to suggest is that the constitution, as suggested here, is very unwise and this for two reasons. One, because it is not within practical politics for anyone to prepare a list of debtors and creditors. Supposing a man has taken Rs. 20 as debt today, and tomorrow he pays it up, then at the time when the list is being prepared his name will have to come in and his creditor's name too will have to come in the list. So it will be impossible to draw up a permanent list of the voters, namely the creditors and the debtors. The other thing that I want to point out in connexion with this matter is that this provision is against the interests of the creditors, and I think we must look to the interests of the creditors also because this resolution says that the creditors and debtors jointly will elect the members of the board. Now, as a matter of fact, the number of debtors is preponderating and is much in excess of the number of creditors. One creditor gives out loans to about 100 debtors, with the result that the elected members will be only pro-debtors, and the creditor will have no opportunity to elect his own representative. For that reason I think we must look to the interests of the creditors also. I have been considering over this matter and I think that to begin with—later on we can introduce the principle of election—we must trust the collector in this matter and let him select suitable men who can realise their responsibility and who are above suspicion. He can select them for the time being and when later on these boards begin to work well, then of course, the principle of election in some way or other should be introduced. But even then I would be very strongly opposed to the election of members by creditors and debtors jointly. Some arrangement will have to be made: some seats on this board will have to be set apart for the creditors and some for the debtors, and so on. Some sort of safeguard will have to be introduced later on, but at present, to start the work, I think let us trust the local authorities in the matter of the

selection of these boards, and the best men available should be selected for the purpose.

Rabu Madhusudan Dayal: What the chairman of sub-committee no. 2 has said (Khan Bahadur Maulvi Fasih-ud-din Sahib) comes to this. Give the power to the district magistrate and he will redelegate his power to the sub-divisional officer, and he in his turn will redelegate it to the tahsildar, and the tahsildar in his turn will redelegate his power to the kanungo.

Maulvi Fasih-ud-din: I did not say that.

Babu Madhusudan Dayal: I am just explaining the procedure. The kanungo in his turn will nominate retired military men, who want to keep their power in the village, to keep the labourer, the agriculturist and everyone under their shoe. It is impossible that the creditor can have any confidence in such nominated conciliation boards, while if the creditor and debtor come to any conclusion in regard to electing a member, that will be a better method, because the creditor knows as well as the debtor who is the right sort of man in a local area. I think the method of election is much better than giving the power to the Collector to nominate members on such conciliation boards. I strongly oppose granting any power to the Collector for the nomination of members on those boards. If these conciliation boards are to work successfully at all, it can only be by the principle of election by the debtor, and creditor, and by no one else. Otherwise, the fate of these boards will be the same as that of the panchayats in these provinces, which have never been successful in any part of the province.

Mr. Rudra: I think it is essential that we should ensure success for the working of these conciliation boards, and therefore I think the principle of election is vital. I think the doubt expressed by the honourable member is quite sound. I think it is not a matter of proportionate representation. It is principally a matter of representation of different interests—the creditors and debtors. The creditors will probably elect their own representatives, and the debtors their own—and not jointly.

Maulvi Fasih-ud-din: It is not said in the resolution.

Chairman: I think that is the intention. It probably would be if it is approved.

Mr. Rudra: I beg to submit that this committee would do well to follow the lines of the Central Provinces Act as well as the Bihar and Orissa Act, which have been tried and proved successful in both those provinces. I am afraid I do not know the details, but I could easily furnish information on the point.

Mr. Sah: As a representative of the creditors I welcome a conciliation board. As a matter of fact nowadays it is impossible for a creditor to recover his money, and so the creditors would welcome a conciliation board. But I would like to point out that a conciliation board should first of all try to conciliate, and then make an award; and the award of the conciliation board should take the form of a decree to be executed by the civil court. As regards the form of working of the conciliation board, Mr. Rudra has made a very

sound suggestion and I think it should be accepted.

Dr. Mukerjee: I should like to reiterate that the object of the conciliation board is to focus rural public opinion on the settlement of debts. Now if a board is constituted by means of nomination

Chairman: It is no longer proposed now.

Dr. Mukerjee: So we are all agreed regarding the principle that there should be election of representatives of both debtors and creditors in this body. Without such an election any kind of agreement regarding the amount of debt or the terms of settlement of such debt would be impossible to achieve. Sir, both election as well as local selection of representatives in the villages form the essential features of the C. P. Debt Conciliation boards, and I think the suggestions which are given here follow the C. P. Act.

Pandit Shree Sadayatan Pande: May I inquire are they going to maintain a list of all the creditors and debtors in the province? How is the election to take place, unless electoral rolls are maintained?

Chairman: The proposal says any convenient local area. I think the sub-committee contemplated that it should be a local area—it may be a village it may be a tahsil.

Mr. Rudra: Will it be in order to fix a lower limit, so that people owing those debts may not enjoy the facilities of this provision.

Chairman: If it is a matter of Rs. 10 why should not they go to a conciliation board to get it settled.

Mr. Rudra: They should go to court for that.

Dr. Dubey: I pointed out in the sub-committee and I have put in a suggestion with regard to that fact in my written note, and I now submit before this committee that some one, say a deputy collector, must watch and supervise the work of such boards, on behalf of the district officer. There should be a provincial debt officer to issue instructions covering the case of different parts of the province, so that we may know how the boards are working in those parts.

Chairman: Well I now propose to put this resolution,—for the general principle of approving of conciliation boards.

(The proposal was carried unanimously.)

RESOLUTION II.

Babu Awadh Bihari Lal: Before taking up, Sir, the general resolution (no. 2) may I point out that this contradicts the resolution of committee no. 2, upon the amendment of the Usurious Loans Act, which lays down different scales of interest.

Chairman: It is almost inevitable that there should be a certain amount of disagreement, in the matter of details. But those details will have to go to a sub-committee. Some of the resolutions must overlap.

Babu Awadh Bihari Lal: I would suggest that the resolution of the second sub-committee be adopted in preference of this.

Chairman: How can we do that? We have got a lot of amendments to this and some of the

amendments, I think, would probably bring it into line as far as interest is concerned.

Mr. Wajahat Husain, read out the following resolution—

“That an Act should be passed enabling an agriculturist debtor to apply to a court for a statement of his account and for a decree.

That in making up the account the court will reopen it from the commencement of the transactions; will prepare separate accounts for principal and interest; will allow simple interest only limited ordinarily to 1½ pies per rupee per month, or 7½ per cent. per annum, on secured and to 2½ pies per rupee per month or 15½ per cent. per annum, on unsecured debts subject to the proviso that in consideration of the risk taken by the creditor these figures, may be raised to 1½ pies per rupee per month or 9½ per cent. per annum and 3 pies per rupee per month or 18½ per cent per annum respectively.

That the court in passing may order that it should be recoverable in instalments, with or without interest.”

Chairman: There are certain amendments which we will discuss first and then, we will have speeches on the main resolution. Mr. Mohan Lal Sah and Mr. Anand Sarup have joined in one amendment. I will now take that.

Lala Anand Sarup: My amendment is as follows:—

That for the words “from the commencement of the transactions,” substitute “for the past three years.”

My object in suggesting this amendment is that if the accounts are opened from the beginning of the transaction and simple interest at the reduced rate is given, I am afraid, that in most cases the creditors will have to pay something to the debtors, instead of getting anything from them, because if the transactions are over 20 years and they pay the interest annually, and if the interest at the reduced rate is calculated as simple interest then I think they will have to pay something. Will it not be contrary to the sacred contract made between the parties? It is only fair and just that we should not touch the past interest, but if we want to touch it, then it may not be for more than three years. That is my first amendment.

Maulvi Fasih-ud-din: I oppose this amendment for the simple reason that the Usurious Loans Act, X of 1918, already provides that the court is authorised to reopen the transaction from the beginning and in that case if we were to legislate for a three years' period, we will be going counter to the already existing Act of the Government of India. So I think we will not be in order in providing for anything which counteracts any of the provisions of the already existing Usurious Loans Act.

Then the other point is this, that this particular provision is meant for the agriculturists and the Usurious Loans Act is for all classes of loan transactions, whether the agriculturists may be involved in them or not. In that case if we were to provide this three years limit for opening the transactions we will be doing an injustice to the agriculturists

because the non-agriculturists will have the privilege of getting the original transaction reopened by the courts, while under this amendment, agriculturists will be prevented from getting the original transaction reopened. Thus we will be doing more injustice to the agriculturists than to the ordinary debtor. So I think it will be against the policy that we should favour the agriculturists, if we were to accept an amendment like this.

Babu Madhusudan Dayal : My friend Rai Sahib Lala Anand Sarup has proposed that transactions may be reopened only up to three years, while my friend the Khan Bahadur Sahib has opposed it on the ground that it would be going against the spirit of the Usurious Loans Act. I think in sub-committee no. II we just wanted to leave the Government of India alone, and have our own provincial Act. In that committee it was suggested that we should not refer the question of usury to the Government of India but to the provincial Government. I think when we are considering a provincial statute we must see that it is sound. I think reopening a transaction from the very beginning will be very difficult. There are some people who have been taking money from money-lenders from about 50 years ago. It will be very difficult to open transactions and to calculate interest and everything else. In most cases when an account is renewed the money-lender generally forgives a part of the interest which is not shown in the accounts. Then the question will arise as to the amount of interest paid and the amount of principal paid, and as no regular account is kept and as there is no money-lenders' Act here, it will be very difficult for the money-lender to prove how much money he advanced and how much he forgave or wrote off when his promote or account was renewed. So I suggest we must have six years if not three years, instead of from the commencement of the transaction.

Pandit Shree Sadayatan Pande : May I inquire what was the basis for that suggestion?

Babu Madhusudan Dayal : It is my suggestion nothing else. I think we will not be going against the spirit of the Usurious Loans Act, nor will we be going against the Government of India Act, for this legislation is coming in the Provincial Council. I suggest if the mover wants he may accept six years instead of three years.

Babu Awadh Bihari Lal : When I drew attention to the difference between the suggestions of this committee and those of sub-committee 2, I meant to say, that sub-committee 2, has suggested that under the Usurious Loans Act any transaction could be reopened from the beginning if the rate of interest is excessive, or if the transaction was substantially unfair. Only in these two cases the transaction could be reopened and the accounts looked up from the very beginning. Here it gives the power to a debtor to ask the court to make up his account and to reopen it from the commencement of the transaction. The Usurious Loans Act says it may be done only when the rate of interest is excessive or if there is anything unfair in the transaction. So I think this

provision by itself should be left out, as any amendment to reopen the transaction up to three years or six years would be redundant, because there is already a provision in the Usurious Loans Act, to reopen the transaction from the very beginning whether it extends to 20, 30 or 40 years.

Chairman : I take it that your opinion is that resolution no. 1, of sub-committee no. 2 is sufficient for getting what we want, that you oppose this and support that resolution.

Babu Awadh Bihari Lal : I do not oppose the first part which says that the debtor should have his account reopened. That is all right. But I say it should not be reopened without any sufficient reason.

Rao Krishnapal Singh : Before I say anything I will quote a passage from the report of the provincial banking inquiry committee.

Chairman : Excuse me one moment. We are only discussing the amendment at the present moment. It is to the effect that instead of "from the commencement of the transaction" we should substitute for a period of three years. Members can speak on the main resolution afterwards.

Rao Krishnapal Singh : I want to speak on the amendment, because the amendment is intended to prevent illicit practices. Now there is a volume of evidence in this report (by Dr. Jain, Professor Thompson and all those people who appeared before the Banking Inquiry Committee) which shows that such practices do exist. It is only fair that a debtor should expect from the creditor a proper statement of the account from the beginning of the transaction, and if the creditor did not maintain any regular account, the presumption is that he wanted to do some dangerous practice. Therefore it is necessary we should reopen the accounts from the beginning of the transaction.

Dr. Mukerjee : The phrase "commencement of the transaction" should be taken along with the other paragraph which follows. If the honourable member would read it closely he would find that at the end of that paragraph it is definitely suggested that there is a good deal of unfairness in the transaction as between the money-lender and the agriculturist. The resolution intends to give a maximum rate of interest which may be charged, and that is in line with the Usurious Loans Act. As pointed out by the honourable member, if we omit the phrase "from the commencement of the transaction," we will go against not merely the spirit but also the terms of the Usurious Loans Act, and handicap the peasant and the agriculturist debtor still more. My contention is that this phrase "from the commencement of the transactions" should be taken up along with the rest of the whole paragraph, which suggests an injustice and unfairness in the transaction, which the resolution seeks to remove.

Mr. Brijnandan Lal : If this resolution is to be retained, it should be retained as it is. Suppose for instance, a loan was contracted 20 years ago, and now the transaction is

reopened only for three years, this will bear a very small proportion to the entire amount. If this period had any reference to the entire period there would be something in it; otherwise it would mean no relief at all. The loan might have risen to a figure of Rs. 5,000 or Rs. 10,000 — 20 times the amount, and if the account is reopened for only three years it will give no relief. So as this has no relation to the entire period for which the loan has existed, I oppose this amendment.

Mr. Sah : An attempt has been made to justify the reopening of the transaction from the commencement of the period, on the basis that there are certain malpractices among the money-lenders. Our evidence in the Banking Inquiry Committee shows that these practices are not very numerous. In the second place, the Usurious Loans Act amply provides against such malpractices. Moreover this resolution goes much further than the Usurious Loans Act. That is why it is proposed that the re-opening of the account should be limited to three years.

Hafiz Hidayat Husain : I just want to point out that in Act X of 1918, there is a provision that the Local Government may by notification in an official gazette, direct that it shall not apply to any area or class of persons or class of transactions which may be specified in the notification. Therefore in considering recommendations of sub-committee no. 1, we should keep distinctly in our view that the recommendation applies only to agriculturists and that the agriculturist may be exempted by notification from the operation of Act X of 1918. Further, my submission is that in the consideration of this resolution we should ignore the recommendations that have been made by sub-committee no. II. We should confine ourselves to resolution no. I of sub-committee no. I. My submission is that it would not be doing justice to the duties we have undertaken if we confine ourselves to the questions of indebtedness extending only to three years, and nothing further, the reason being, as everybody who has had anything to do with procedure in courts knows, that the mahajan always has such entries "lekha se fulane safhe se fulane safhe tak." That *lekha* may be only simple interest or it may be some money which has got 99 per cent. interest. So unless and until you can amend your Act, to go behind that *lekha*, I do not think that you can in any way meet the requirements of the situation.

Lala Anand Sarup : For the future you can compel the money-lenders to keep regular accounts, but for the past I think you cannot expect that. Many of the money-lenders do not keep regular accounts. For two or three years they can prepare accounts but for twelve years, it is not possible. Moreover, I think we are here to discuss whether the period mentioned in the Usurious Loans Act is fair or not.

Maulvi Fasih-ud-din : With your permission I want to point out only one thing to the honourable members of this committee, and it is this: that even the English Act of 1901, allows the courts, even in a mercantile country like England, to go back

to the original transaction and does not fix any limit of time.

Hafiz Hidayat Husain : No, not in all cases.

Maulvi Fasih-ud-din : I will tell you in what cases

Chairman : I do not want a long speech at this stage I will now put Rai Sahib Lala Anand Sarup's amendment which provides that instead of going back to the commencement of the transaction, the court should go back only three years.

(The amendment was lost.)

Chairman : Now there is another amendment also in the name of Rai Sahib Lala Anand Sarup and Mr. Mohan Lal Sah. We will take that up.

Lala Anand Sarup : I move that for the words "simple interest.....respectively" substitute "compound interest only limited ordinarily to 9 per cent. per annum on secured and 18 per cent. on unsecured debts, subject to the provision that in consideration of the risk taken by the creditor these figures may be raised to 12 per cent. and 24 per cent. respectively."

Chairman : Do you propose that the interest should be compounded every twelve months or every six months?

Lala Anand Sarup : Every year.

Mr. Habib-ullah : I want to propose an amendment to the amendment, and that is instead of simple interest, it should be compound interest at 9 per cent. on secured debts and 15 per cent. on unsecured debts. The rest I oppose entirely.

Chairman : You are going to give the courts no latitude. Do you think this is quite enough? We will first discuss Mr. Anand Sarup's amendment as it stands. I do not think the amendment to the amendment is really quite clear. Does any one wish to speak on Mr. Anand Sarup's amendment?

Lala Anand Sarup : I want to say that in every bank and even in Government loans, half yearly interest is paid and the banks sometimes charge on monthly rests. So there is no reason why money-lenders should not be given yearly compound interest when their rate of interest is going to be reduced.

Maulvi Muhammad Obaidur Rahman Khan : What is the rate of interest in the banks?

Lala Anand Sarup : The Imperial Bank charges 3 per cent. and sometimes 9 per cent. They charge from 7 to 9 per cent. with monthly rests. They give money only on secured debts. So I think that the money-lenders should be given compound interest; 9 per cent. on secured and 18 per cent. on unsecured debts is very fair, and when the risk run by the creditors is greater, then the rate of interest should be increased to 12 per cent. on secured and 24 per cent. on unsecured.

Dr. Mukerjee : On a point of procedure. You will find that Raja Motichand's amendment and mine deal with the rate of interest which we are going to fix. It will, therefore, be convenient if 2(i), 2(ii) and 2(iii)

are taken together, and we could then vote on them one by one.

Babu Madhusudan Dayal: I disagree. Rai Sahib's amendment says compound interest, while Dr. Mukerjee's amendment says simple interest. There is a difference between the two. How can they be discussed in the same amendment?

Chairman: I do not think there is any particular point in that if the committee has any objection. It is only a matter of making things go a little more quickly.

Mr. Habib-ullah: With your permission I would reduce 15 to 12.

Babu Awadh Bihari Lal: This subject of rate of interest was discussed at great length by sub-committee no. 2, and we came to the conclusion that 8 per cent. for secured and 15 per cent. for unsecured debts was the limit of fair interest to be charged. If the interest were higher the court would presume that to be usurious and would reject it. We also provided that in cases where there was special risk, the interest could be raised to 11 and 18 per cent. simple. I think we shall have to come down to some definite figure of interest, beyond which it could be treated as coming under the Usurious Loans Act, because we are laying down here a rule that the courts should give a decree, and it is only fair that the debtors and creditors ought to know what is the highest rate of interest they can charge. I think the cultivator has no security to offer; his debts would generally be unsecured debts, because he cannot mortgage his holding under the present Act and 18 per cent. ought to be quite enough for all the risks a money-lender runs in lending money to a cultivator. We also propose another rule of not decreasing more than double the principal. If any of these rates are fixed at a higher figure than 18 and 15 or 11 and 8 as proposed by the sub-committee, the other rule would debar any higher figure, for under it the amount to be decreed with interest should not be more than double the principal. We made that rule for all loans. But in the case of old loans past payments are not to be taken into account. Only at the time of decree, the interest decreed would not exceed the principal and for future loans we laid down the rule that the entire amount, making allowance for payments before the decree, should not exceed double the principal. If higher rates are suggested I would suggest that this rule should be strictly enforced, viz., that in no case the interest should exceed the principal.

Chairman: There are two questions involved: (1) Whether the money-lender should be allowed compound or simple rates of interest, and (2) the rates that should be allowed. With the approval of Mr. Anand Sarup and with your general consent, I propose to put the amendment first, whether the money-lender should be allowed compound or simple rates of interest, and when the Committee has expressed its view on that, then we can go on to the next about rates.

Mr. Sah: The practice amongst banks and banking institutions, which we want to patronise and which we want to take

as our guide, is in the case of Hundis, to deduct interest before payment. So that it is even more than the compound interest. In the second place, they compound every month. Now we take the Imperial Bank as our guide. The practice of the Imperial Bank is to charge one per cent. above the bank rate when the debt does not exceed Rs. 5,000. Of course, during the summer months money is very cheap in Calcutta and Bombay, as it is 5 per cent. interest only. Now take the case of the Allahabad Bank, the Allahabad Bank charges generally 8 per cent. on first class security, such as marketable shares or the Government securities, and they compound every month. What reason is there why we should not be allowed to compound and when we are paying compound interest ourselves? As a matter of fact there is a chain in the credit system of the country. The banks lend to the money-lenders in the town, and the town money-lenders lend to the village money-lenders and the village money-lenders lend to the agriculturists. So when we have to pay compound interest ourselves, why should not we be allowed compound interest?

Maulvi Fasih-ud-din: As has been pointed out by my friend on my left (Rai Bahadur Babu Awadh Behari Lal), this resolution does not provide any limit for the accumulated amount of interest, and for that reason I think it would be very dangerous to provide that the interest should be compound. In connexion with the amendment of the Usurious Loans Act, we have already said that the accumulated amount of interest should not exceed the principal. That is the rule of *dam durat*, which has been laid down by the Hindu law-givers from time immemorial and which is being acted upon even now in all the Hindu native states. So I think if we were to provide for compound interest at all, we would have to lay down a safeguard against the accumulation of the amount of interest to an exorbitant amount, by laying down this rule that in no case, whether the interest be compound or simple, the accumulated amount of interest should not exceed the principal. That rule should be inserted here and I move this as an amendment to this amendment "provided that in no case shall the total amount of the interest and principal be more than double the principal." In that case I think we will have no hesitation in agreeing to this proposal.

Chairman: We already have a resolution of sub-committee II on this.

Mr. Habib-ullah: By opposing the principle of compound interest, we do not mean to go against that resolution; but we stick to the principle that on no account the principal should be double the amount.

Dr. Mukerjee: I am opposed on principle to fixing the terms of interest as compound, because compound interest always increases in geometrical progression. It has been the tradition in the East and in all countries of the world where there is any limitation of usury and foreclosure, to consider only simple interest. Compound interest is never thought of.

Dr. Dubey: I do not think, Sir, by simply passing a resolution here in this House or even bringing forward a motion of that sort in the Legislative Council, we are going to

abolish the principle of compound interest wherever it is existing in all parts of the world. As a matter of fact, in all commercial transactions whether they are between an individual and an individual, or between a mercantile firm and a mercantile firm or between a nation and a nation, the principle of compound interest is an absolute necessity. As a matter of fact, the accumulation of capital would not have come into existence at all if there had been no principle of compound interest. It is one thing to take measures for the purpose of dealing with persons charging exorbitant rates of interest, and it is entirely another thing to abolish the principle of compound interest. As a matter of fact, no banks, no joint stock banks and no institutions will give any help whatever to the agriculturists if the principle of compound interest is altogether abolished in the case of agricultural transactions. Therefore, however, nominal might be the rate of compound interest, it is a different thing to abolishing the principle altogether. You might put the limit of *dam dupat* but we must recognize that there is a principle of compound interest. The Imperial Bank charges compound rates of interest at monthly rests. That is the highest institution we have to follow, and so far as the Government loans are concerned, there can be no better guide than the Government of India itself. Therefore we have to recognize that the principle of compound interest is there. It must exist. It is a different thing, that in the case of interest amounting to very large sums, it might be curtailed to small sums of money.

Rao Krishnapal Singh: I do not think that we can compare these transactions to the ordinary business transactions because the condition of the agriculturist is so poor. Such a condition does not exist in other business transactions, a parallel cannot be found anywhere else. Therefore, we have to take steps which are suited to our conditions. So far as the question of compound interest is concerned, I suppose the majority of us agree to Rai Sahib Lala Anand Sarup's amendment that it should be allowed once a year. But then if we accept Khan Bahadur Maulvi Fasih-ud-din's amendment that the compound interest should only be allowed once a year and that it should not exceed the amount of principal, I suppose there will be no objection. If Rai Sahib Lala Anand Sarup accepts that amendment, it will cut short the discussion on this point.

Lala Anand Sarup: I agree that the interest should be yearly and that the interest should not be more than the capital amount.

Chairman: Does this meet your point?

"Resolved that the interest allowed by the court should be compound with yearly rests but in no case should the interest decreed exceed the principal."

Dr. Mukerjee: On a point of procedure. You just wanted us to decide whether we should accept on principle a limitation of the rate of interest as simple or as compound. Now some of us are opposed in any case to the fixing of compound interest. Before this is put to the vote, I would like to get a ruling

whether the rate of interest should be simple or compound irrespective of figures.

Chairman: I understand that nobody in this House proposes that compound interest, without applying *dam dupat*, should be allowed.

Dr. Mukerjee: Some did propose in that manner.

Chairman: I could put two proposals if you wish. First I will put this proposal before the House that the interest allowed by the court may be compound with yearly rests without any reference to *dam dupat*; unless it is carried, then I will put another one with *dam dupat*.

Mr. Brijnandan Lal: I was under the impression that the question was dropped altogether. I am surprised that Dr. Mukerjee is against compound interest on principle, because compound interest is a sort of penal interest to guard against defaulting debtors. When the interest is not paid regularly, then only it becomes compound interest. It would be putting a premium on defaulting debtors. Besides the rate of interest will go up. If you don't allow compound interest even in the case of defaulting debtors, the creditors will demand a higher rate of interest. Instead of helping the debtors it will be harming them by putting the rate of interest up. The rate of compound interest may be very low, but there should be some provision for defaulting debtors.

Dr. Mukerjee: One may not object to compound interest as such, but in this case we are fixing a maximum rate of interest beyond which we would consider the rate of interest as unfair; and in fixing that rate of interest I should think we should fix it as simple rather than compound. Even though compound interest is a dangerous necessity, the upper limit of interest should be fixed at a simple rate rather than at a compound one.

Rao Krishnapal Singh: I think that point about the interest not exceeding the principal has been left out.

Chairman: Well, I am just trying to make that clear. Somebody always speaks as soon as I start putting the question. The first amendment will run "Proposed that the interest allowed by the court may be compound with yearly rests." That leaves out the principle of *dam dupat*. Another proposal which has received considerable support and which I will put afterwards is "Proposed that the interest allowed by the court may be compound with yearly rests, but in no case should the interest exceed the principal."

In order to meet the various objections, I want the House first to express its opinion whether there should be compound interest with yearly rests and no limit. If they decide against this proposal, then I would ask the House whether they would want compound interest with the limit of *dam dupat* or simple interest. Will those who are in favour of making the interest compound with yearly rests and no limit, please put up their hands?

(The amendment was lost.)

Chairman: Now the question is whether the interest should be simple on the one hand or whether it should be compound interest with the limit of *dam dupat*.

Mr. Mogha: It will be necessary to inquire whether the application of so-called *dam dupat* would involve taking into account the interest which the man has already paid.

Chairman: Is there any legislation which does take into account previous payments?

A member: No.

Maulvi Fasih-ud-din: May I say one thing? I have taken pains to write out a sort of pamphlet on this subject and I spent about four weeks over it. I have got it in my hand, but I could not unfortunately have time to have it printed. I have in this pamphlet quoted the original texts of all the Smritis from Manu downwards to Narada including Vishnu and others, with the help of pandits, and given literal translations of those Vedas. They say that the previous payments on account of interest must be taken into account. That state of things remained until 1863, namely, the interest already paid used to be taken into account. Later on some courts decided that the meaning of the law of *dam dupat* was not that, but simply this, that at the time of passing a decree the amount of interest should not be more than double the principal. Well, that state of things continued for many years. Then in 1929 one of the High Courts gave a final ruling on the subject that the Hindu law of *dam dupat* was being misinterpreted. That is a very big ruling of Justice Hallifax. It says that the whole thing was being misinterpreted and that the interpretation of the pandits of *Sadar Diwani adalat* was perfectly satisfactory and that the meaning of the ruling was simply that all previous payments should be taken into account. Since then there have been other rulings which follow this ruling of Justice Hallifax. That is the whole situation and I have got a full chapter on this subject in my pamphlet. Any gentleman who cares to have a look at it will be quite welcome to do so.

Chairman: At present I feel sure that the sense of the meeting on the amendment in which they will be using the term *dam dupat* is without taking previous payments into account. There may be an opportunity in a later resolution, if that resolution should come up, for discussing whether on future occasions the interest is never to exceed the principal, however many payments are made. At present we are considering that previous payments are not to be taken into account. So I have made an addition to the amendment, which now runs:

"Proposed that the interest allowed by the court may be compound with yearly rests, but, in no case shall the interest decreed exceed the principal without taking earlier payments into account."

Rao Krishnapal Singh: In cases where previous payments are taken into consideration, I think the amount might be limited to double the amount of the principal.

Chairman: That is going still further. It is more difficult to bring in here.

Mr. Sah: I would support Rao Krishnapal Singh.

Dr. Mukerjee: We have just voted against the principle of compound interest.

Chairman: When I put the amendment, my only object was to elicit the views of the meeting. Nothing else.

Maulvi Fasih-ud-din: Could not this be put in this way? For past loans it should not be taken into account and for future loans it may be taken into account.

Chairman: I do not think that is the amendment. The general impression I got was that the committee wanted to decide whether compound interest or simple interest should be taken into account.

Rao Krishnapal Singh: Supposing the committee gives a verdict on a point which has got to be discussed later on by this Committee, can that verdict be upset later on?

Chairman: I think it can. This is an advisory committee. We are well aware that a good many of these resolutions overlap and they are to some extent contradictory. Before these can possibly be legislated, they will have to go to a drafting committee and also for reconciliation of minor inconsistencies.

Well, I now propose to put to the House this resolution that the interest allowed by the court may be compound with yearly rests but in no case shall the interest decreed exceed the principal without taking earlier payments into account.

(Amendment carried.) p. 277

Chairman: Now we have got to get on to the question of the rates, which is rather difficult. Mr. Anand Sarup, having got your point through about the compound interest, do you want to move the second part of your amendment that the interest should be 9 per cent.?

Lala Anand Sarup: I want 9 per cent. on secured and 18 per cent. on unsecured debts. The Imperial Bank charges 8 per cent. interest with monthly rests, and the other banks, the Allahabad Bank and the Central Bank, also charge 9 and 10 per cent. with half yearly rests. So there is no doubt that on secured debts, the money-lender should get 9 per cent. on secured and 18 per cent. on unsecured, because a large proportion of the unsecured debts is not collected by the money-lenders, and especially by the agriculturists. So I think that on the money advanced, taking into consideration the risk taken by the creditors, the figure should be raised to 12 and 24. Now, of course, money-lenders charge 36 per cent. per annum, half anna per rupee per month, which is very exorbitant, and sometimes they charge one anna per rupee per month, which comes to Rs. 6-4 per cent. per month. Under the insolvent system, it comes also to about 6 per cent. and the Khans, who give cloth and advance money to these agriculturists, charge not less than Rs. 6-4 per mensem. So I think if we reduce that amount to 12 or 24 per cent. it is not unfair; and in case where there is stability we should have from 9 to 18 per cent. So I hope on this ground, the House will accept the rates proposed in my amendment.

Mr. Habib-ullah: I oppose this amendment. I have got my amendment. I propose 9 per cent. on secured debts and 12 per cent. on unsecured debts, compound interest, omitting the word "ordinarily", and leaving out the rest.

Chairman: So the amendment to the amendment is compound interest only limited to 9 per cent. per annum on secured and 12 per cent. on unsecured debts.

Mr. Habib-ullah: In bringing this amendment I have only followed what is practical politics at the present moment in the financial world. In fact, no bank will advance money under 8 per cent. on a secured debt, and on unsecured debt perhaps they will not advance at all. Here we have either got to go to an agricultural bank (if we have one) or to a money-lender, and in either case we have got to think of the risk they take in advancing such loans. Even if we start a bank, we may stand in need of borrowing money from some bank and in doing so, perhaps you will never get under 6 or 7 per cent. and if we did borrow money and advance it to agriculturists, it is impossible for us to advance the money under 9 per cent. with risks and everything included. Therefore I do not want to put two sets of simple interest and then compound interest with risks. If one advances money, one always takes risks and that risk should be secured, and it is with this view that I have put 9 per cent. and 12 per cent. which I think will be within the reach of everybody. I have just been told by the previous speaker that the interest charged from the villagers and other helpless people is exorbitant and I see in this House that some of my friends feel that I have raised the limit of compound interest very high. I think if they will go to the practical side of the world and find out what is going on, they will find that 9 per cent. and 12 per cent. is not at all high, and I think it will bring a good relief to a man in need, provided there is no other underhand dealing with him, as is at present practised in the villages. I hope this amount that I have proposed will appeal to the Committee.

Lala Anand Sarup: So you will keep this amount for the past debts also.

Mr. Habib-ullah: If it is higher, then I will.

Mr. Sah: May I say something about this resolution? My learned friend, Mr. Habib-ullah, of course said about reducing the limit on unsecured debts to 12 per cent. As a matter of fact, he rather strengthens our case. I have very little to add because much has been said on this question in the previous debate. The Imperial Bank practice is to give loans at a flat rate of 7½ per cent. against first class gilt-edged securities, just like gold, silver or Trustee securities or the securities of the Government; and when the amount borrowed is less than Rs. 5,000 it comes to 8½ per cent. and then it is compounded every month. Here we have made it compoundable yearly. In the draft scheme of the land mortgage bank that we framed, we have put down that the loans will be advanced at 9 per cent. So that this rate is very, very fair. And as regards the unsecured loans, the co-operative society is lending

at 15 per cent. to the agriculturists. The society has got many many privileges which the money-lenders have not got. In the majority of cases the maximum rate of interest is 25 per cent., whereas some of them are lending at 37 or 38 per cent. So I submit this is a very reasonable rate.

Chairman: I see, Mr. Sah, that you have suggested 25 per cent. while Mr. Anand Sarup has suggested 24. Perhaps it will save trouble if you and Mr. Anand Sarup could agree whether your higher rate should be 25 per cent. or 24.

Mr. Sah: I have no objection to 24.

Babu Awadh Bihari Lal: We discussed the rate of interest at great length with the persons who have a good deal of experience of money-lending. We thought 8 per cent. would be quite enough for secured debts and money would be forthcoming at that. But as there is a tendency to ease down these rates and make money available to agriculturists; I think 9 per cent. is suitable for secured and 15 per cent. for unsecured debts. The Usurious Loans Act takes into consideration the exceptional risks taken by creditors and for that reason we should provide 11 and 18. Eleven may be made into 14, because it works better. So I propose 9 and 15 for secured and unsecured debts respectively, and in the case of special risks 12 and 18. I would explain that it becomes automatically compound when interest has to be paid yearly and the debtor fails to pay. So it is only his own failure to pay that brings on that compound interest.

Chairman: It is quite clear that the sense of the Committee so far is that compound interest, subject to a total limit, is what they approve, only it is at yearly rests.

Babu Awadh Bihari Lal: So it lies with him. I do not think we need encourage the debtors to be lax in paying their interest.

Babu Madhusudan Dayal: Unfortunately I have to differ from Rai Sahib Anand Sarup and support Rai Bahadur Babu Awadh Bihari Lal. I think in the present time the rate of interest should be reduced to what Rai Bahadur Sahib has suggested. That proposal is not unreasonable and I request the members of the House to accept it.

Dr. Mukerjee: I am sorry I cannot see eye to eye with my former colleague in the Banking Enquiry Committee, who often brings before this Committee conditions which relate to the Imperial Bank or other joint stock organizations. The conditions and facilities of credit in the villages are far different from those which are available to the customers of the Imperial Bank. Here in this committee we are asked to prevent the exploitation of the peasant as a debtor by the credit agencies in the village, and at the same time, when we are wanted to prevent exploitation, we are asked also not to devise any measures which may scare away the little capital that there is in a locality. Careful surveys have been undertaken on interest rate as a fair remuneration of the investment of agricultural capital not only in this province but in all provinces. One of those surveys was recently conducted by Mr. Waugh, and you will find his results incorporated in

the proceedings of the Provincial Banking Enquiry Committee. Other surveys of rural money-lending and rates of interest have been similarly conducted by students of the Universities and incorporated in the Banking Enquiry Committee's evidence volumes. All these clearly indicate that the interest which will not scare away capital from the villages, which will at the same time amply remunerate or recompense creditors for any risks they take in lending money, will be somewhere between 12 and 15 per cent. simple rate on secured and 18½ per cent. or 20 per cent. on unsecured debts in the villages. Now this is the result of very careful, intensive inquiries undertaken in different natural regions of this province. Money-lending at such rates will be a profitable business in the villages guaranteeing the essential profits needed for the risks undertaken. Mr. Habib-ullah's suggestion is that we should fix a compound rate of interest for secured debts at 9 per cent. and unsecured debts at 12 per cent. I should think that the Committee will be well advised if we fix a maximum rate of compound interest, not a minimum rate. So I suggest that the Committee recommend that we will not permit any compound interest exceeding 12 per cent. per annum on secured and 18½ per cent. per annum on unsecured debts with yearly rests.

Chairman: This is an amendment to the amendment. You want compound interest limited to 12 per cent. on secured and 18½ per cent. on unsecured debts.

Rao Krishnapal Singh: I too have an amendment to this resolution no. 2.

Chairman: We are discussing the amendment to the resolution at present, not the resolution itself. If it is an amendment to Mr. Anand Surup's amendment, you may move it now.

Rao Krishnapal Singh: I will put it in the form of amendment to the resolution. It can be altered so as to be in the form of an amendment to the amendment. In line 4 substitute the figure "6" in place of "7½" and "12" in place of "15". In line 7 substitute "7½" for "9½" and "15" for "18½". Now, Sir, my complaint is that all along in this discussion on this point, the rate of interest has been looked upon from the point of view of bankers, as to whether it will suit them. I would request the Committee to look at the matter from the point of view of the peasant, the poor man, and Sir, I would like to give a few figures which show as to what sort of a paying concern is agriculture these days. I calculated these figures in one of my own villages and I have shown it to trained agriculturists and they did not seem to differ. I have taken the unit of 10 acres as a unit which can be controlled by one pair of bullocks. The income there according to this calculation comes to Rs. 156. The expenditure on the same holding comes to Rs. 239, which includes charges for labour for 2 men at Rs. 6 per head totalling Rs. 144. Therefore we find that the amount of profit is minus 83 on a holding, the size of which is considered to be economical.

Babu Madhusudan Dayal: I question these figures.

Rao Krishnapal Singh: Will you give me better ones? These figures were taken at the

time when the economic depression was at its worst. It has improved a little since, but still these figures could not be challenged. I hope any member here would give his figures and satisfy the Committee that his figures are more accurate than mine. I shall gladly accept the verdict of this Committee. Well, Sir, such is the condition of our villages. To the average cultivator, this concern is a losing concern. We all know that in any village, whether a good village, or a backward village or a prosperous village, it is doubtful if a holding of this size can bring profit to the cultivator. Were it not for the fact that the wages of the labourers, an item of Rs. 144, goes to the men who work in a village—and they are ordinary farmers—it would have meant starvation to the cultivator.

Then, Sir, when Rai Sahib Lala Anand Sarup moved his amendment he wanted the rate of interest to be limited to 24 per cent. Reading the Banking Enquiry Committee report, we find that the interest there is considered to be 24 per cent. Therefore, Sir, if we retain that rate of interest we shall not be making any progress.

Then, compound interest has been allowed by this Committee. I do not see any reason why the limit of 15 per cent. will not be enough. A lot has been said that money-lenders will not lend money and the cultivator will find it difficult to secure a loan. I do not agree with it, because I look at it in this way. If I have a plot of land, and if I am prohibited by law to charge a higher rent than is allowed by law, or than the tenants are prepared to pay; what will I do? I will not let it lie idle. I will have to let it out. I will let it out on whatever rent I can get. Similarly, when money-lenders find that they cannot charge exorbitant rates of interest, they cannot afford to let their money lie idle. That is the whole point. I do not suppose any businessman, whether he is a banker, whether he is an industrialist, whether he goes in for any commercial business, can afford to let his capital remain idle for any length of time. It is only because they are allowed to charge exorbitant rates of interest that they do not do it. If they are not allowed to charge exorbitant rates of interest, they will have to lend money on cheap rates of interest and there is no reason why the limit of the rate of interest should not be reasonable, and why it should not be one which the cultivator can afford to pay. Sir, if any real relief is intended by the Committee, this is a most important point to consider. We know this has been the chief cause in times gone by of the cultivators' indigence. It has meant the ruin, not only of hundreds of thousands, but perhaps millions of families in this province, and unless we can correct this particular defect, I do not see how we can afford relief to the agriculturists of this province.

Dr. Dubey: In a number of speeches this morning, one important idea appears to be running through, and that is that by laying down a compulsory rate of interest you can extract from the capitalist the necessary amount of capital that is required. As a

matter of fact, rural indebtedness is not only engaging the attention of this country, but of a number of other countries. Personally I am opposed to laying down a particular rate of interest on principle; but since in this country we find that there is no maximum limit to a rate of interest, we have to do something of the sort. We may lay down some maximum, it may be 18, 20, 24 or 25 per cent., or anything in that vicinity. Personally, my heart is very much with what Rai Bahadur Awadh Behari Lal said this morning. In the case of secured debts we might put 9 to 15 per cent., and in the case of unsecured debts 12 to 18 per cent. Such an experiment was tried in two countries. One was Roumania and the other was Germany. In Roumania they said they will fix the maximum rate at 6 per cent. above the bank rate, and in Germany they fixed the maximum amount of interest at 18 per cent. As a result of both these operations, there has been considerable contraction of credit in these two countries, in Roumania as well as in Germany. For the last five years we find that in Great Britain on a number of occasions, the bank rate has been extremely small. In today's paper we find that it has been reduced to 2 per cent., but the British Government have found it impossible to convert its £2,000,000,000 loan. It is perfectly right to give all kinds of relief to the agriculturists, but at the same time it is absolutely necessary that the current flow of credit should be continued. It is quite all right that a maximum rate of interest should be laid down, but it is at the same time very necessary that the rate of interest should be laid down in such a fashion that the current flow of credit will be continued in the future; and when already our inquiries reveal that credit has already contracted from 50 to 25 per cent., it would be difficult to attract the necessary amount of capital if we were to lay down a low rate of interest. Therefore, from every point of view, in fixing the rate of interest, the important problem is to retain the necessary supply of capital from the capitalists. Personally, I am inclined to think that the capitalist will not invest his capital if he finds that the risks are very great and the corresponding gain or the interest is very small. Consequently, I support the amendment of Rai Bahadur Awadh Behari Lal.

Rao Krishnapal Singh: I would like to know from the previous speaker what is the rate of interest that has always prevailed in the neighbouring state of Nepal? I would like to ask him whether it is not 10 per cent. according to memorandum included in the report of the Banking Enquiry Committee?

Dr. Dubey: I am sorry I have not come across that passage. Even if I have come across it, I do not remember to have noted it.

Babu Madhusudan Dayal: Will he kindly let me know what is the Government revenue per acre in Nepal in comparison with the United Provinces?

Rao Krishnapal Singh: Money-lenders do not pay Government revenue.

Babu Madhusudan Dayal: The Government of Nepal is exacting a lesser amount from their

subjects than the Government of the United Provinces or the Government of India.

Mr. Rudra: I think one thing might be borne in mind and it is this. There is a very large volume of debt incurred by the agriculturist on non-productive objects. If the rate of interest is reduced by our action, then certainly the demand for credit may be increased but the supply from the bankers will shrink. Village money-lenders are lending money for non-productive uses. Well, if they are going to get less interest for their loans and credit facilities that they supply to the villagers, they will certainly reduce the amount that they supply to the people. And that will be a good thing, because this amount of money will not be used for unproductive purposes for which it is now being used. So I support Rao Krishnapal Singh very strongly in his sentiment of reducing the rate of interest, because I feel certain that the supply of capital will be cut short everywhere and the money-lender will be very careful in lending out his money. I suppose he is not so careful now and the psychology of the peasant is that of mere thoughtlessness, he has no foresight and he utilizes the money because he thinks he needs it and he uses large sums of it for non-productive purposes.

Lala Anand Sarup: I agree to the amendment moved by my friend Rai Bahadur Awadh Behari Lal that the rate should be 9 per cent. and 15 per cent. on secured, and 12 per cent. and 18 per cent. on unsecured.

Chairman: Then you propose to withdraw your amendment in favour of his?

Lala Anand Sarup: Yes.

Mr. Sah: As a matter of fact, this amendment has been put down in our joint names. I do not agree to its withdrawal. The only thing that I want to say is that the rates proposed by me are not very unreasonable. As a matter of fact, one thing that has been made out is that the money-lenders will not lend money because they cannot let their capital lie idle. Most of the money-lenders lend on borrowed capital. They will cease to borrow the money and then there will be a shrinkage of the money that will be forthcoming for the agriculturist. A reduction in the rate of interest will have rather a bad effect on future financial operations for agriculture, and moreover the contracts that have been made between parties are always held sacred and must be held sacred as far as possible. Of course, for the future it is a different matter.

Chairman: Well, gentlemen, we have got six sets of rates for the consideration of this Committee. I propose to go through them in the order in which they stand. Of course, if you accept any amendment to an amendment, then the other falls to the ground.

First is the original proposal from the Sub-Committee that the interest should be 7½ per cent. on secured and 11½ per cent. on unsecured debts, but that where special risk is concerned, the court may raise the interest figures to 9½ per cent. on secured and 18½ per cent. on unsecured.

Then comes the amendment which Mr. Anand Sarup would withdraw but which Mr. Mohan Lal Sah retains, which has been printed and that is 9 per cent. on secured and 18 per cent. on unsecured debts, where there are special risks these figures are raised to 12 and 24.

Then the next amendment is Mr. Habibullah's and he sweeps away all question of special risks and limits it to 9 per cent. on secured and to 12 per cent. on unsecured debts.

Then comes a further amendment, I think it is Rai Bahadur Awadh Bihari Lal's. It is 9 per cent. on secured and 15 per cent. on unsecured, and where there is special risk these figures may be raised to 12 and 18.

Then comes a further amendment, Dr. Mukerjee's, that it should be compound interest limited to 12 per cent. on secured and 18½ per cent. on unsecured debts.

Then there is the final amendment by Rao Krishnapal Singh. He would make the interest 6 per cent. and 12 per cent. on secured and unsecured respectively. In the case of special risks, he would raise it to 7½ and 15 respectively.

Well, I shall now put this last amendment first, viz., making the rate of interest 6 per cent. on secured and 12 per cent. on unsecured debts, and in the case of special risks 7½ per cent. and 15 per cent. respectively.

(Amendment lost.)

Chairman: Now I put the amendment moved by Dr. Mukerjee, which is 12 per cent. on secured and 18½ per cent. on unsecured debts, without any special provision for special risks.

(Amendment lost.)

Chairman: Now I put the second amendment to the amendment that was moved, viz., that the interest on secured debts should be 9 per cent. and on unsecured debts 15 per cent., but the court should be permitted to raise the former to 12 and the latter to 18 per cent.

(Amendment carried.)

Chairman: I declare this carried, and all the others fall to the ground.

(The Committee adjourned for lunch.)

(The Agricultural Debt Committee met after lunch at 2.15 p. m.)

Rai Sahib Lala Anand Sarup moved the following amendment:—

"In paragraph 3, at the end of 'instalments with or without interest' add 'if the instalments are not paid in time the whole amount may become payable'."

Chairman: May I take it that it is accepted by everybody.

The amendment was carried unanimously. Lala Anand Sarup proposed the following amendment:—

"The limit of the accounts to be reopened by courts under this resolution should be Rs. 500."

We want to give relief to the agriculturists. The limit I propose is quite reasonable.

Maulvi Fasih-ud-din: This will make it more stringent than the law under the Usurious Loans Act is at present.

Mr. Brijnandan Lal: I oppose it on the ground of vagueness. Will the amount include interest as well?

Dr. Mukerjee: I am opposed to any limit being put. The less the credit the less will the tenant borrow. The unsecured borrower borrows less. We would be barring a great many from the benefits of this resolution, by accepting this amendment.

Mr. Shah: The agriculturist will benefit under the limit. It does not go against the provisions of the Usurious Loans Act. The resolution goes far beyond the Act and therefore we want to limit its scope.

Babu Madhusudan Dayal: I would like to know first what the definition of "Agriculturist" is.

Chairman: I can tell you the Bombay definition "Agriculturist is a person who ordinarily engages personally in agriculture in the British territory within the limits of the Bombay Presidency provided that his yearly income from sources other than agriculture does not exceed Rs. 300 and aggregate income from all sources does not exceed Rs. 600." This proposal was made by the District Judge of Poona before a Commission of Inquiry.

But the actual definition in the Bombay Act is as follows: "Agriculturist means a person who by himself or by his servants or by his tenants earns his livelihood wholly or principally by agriculture or who ordinarily engages personally in agricultural labour."

Babu Madhusudan Dayal: Now what should be the definition in our province?

Chairman: My difficulty is that the definition depends on the will of the Council, which cannot be foreseen. Unfortunately Council is not sitting otherwise its opinion could have been taken.

Babu Madhusudan Dayal: What I mean to say is that Government must give some definition of an "Agriculturist".

Chairman: How can Government do that? Government cannot take the responsibility upon itself to define an "Agriculturist". It is quite open to this Committee if it can to recommend as to what exactly an "Agriculturist" is to cover. Our Committee will rather find it difficult to do it. It should be left for the draftsmen.

Babu Madhusudan Dayal: Both the definitions are from the same Presidency. If there would have been judgments from two Presidencies that was quite different. I cannot understand whether the District Judge of Poona is right or the Bombay Government is right.

Maulvi Muhammad Obaidur-Rahman Khan: What do you suggest?

Babu Madhusudan Dayal: When I was not on the sub-committee, how can I suggest a definition? I just wanted to know what an "Agriculturist" is.

Mr. Rudra : The sub-committee from the beginning attempted a definition, but it was ultimately thought that it was impossible to define "Agriculturist" and so they gave it up. The sub-committee thought that this Committee will go into the more difficult questions and I think it is certainly right.

Chairman : Council will have to determine the definition eventually. Here it is a fairly practicable definition that "Agriculturist means a person who by himself, or by his servants or by his tenants earns his livelihood wholly or principally by agriculture or who ordinarily engages personally in agricultural labour." I do not think it is very much different from "An agriculturist is a person who ordinarily engages personally in agriculture in British territory within the limits of Bombay Presidency provided that his yearly income from sources other than agriculture does not exceed Rs. 300 and aggregate income from all sources does not exceed Rs. 600." Of course this limits income.

Babu Madhusudan Dayal : Then the income will also have to be reduced proportionately from the year the definition was given by the Judge.

Mr. Rudra : I think the Royal Commission on Agriculture attempted a definition. Perhaps it would be too comprehensive for our purposes.

Mr. Brijnandan Lal : I think we should say "Who derives three-fourths of the income from agriculture". This will exclude big zamindars.

Chairman : I do not think that a committee of this sort is able to draw up a definition. If you want us to define "Agriculturist", I think I must ask one of you gentlemen to put in a further resolution which I shall take at the end and then we can suggest to Government that we consider that this should be the definition of "Agriculturist" for the purposes of this measure. But if you start talking like this we cannot get on. This answers to a considerable extent the honourable member's question. That is the general idea of what we mean by "Agriculturist". If you want further definition, we can put in a definition and then invite amendments.

Saiyid Jafer Hosain : Would it not be better to leave it to the Legislative Council to define ?

Dr. Mukerjee : I think it will expedite matters if you place, as Chairman, the second definition as adopted by the Bombay Government and ask for amendments. I think that is a very workable and effective definition which may be applicable quite easily to the conditions in these provinces without any reference to income. We may say "Agriculturists are those who are directly engaged in agricultural operations." I think that is a very workable definition. I would like with your permission to propose it for the purposes of this measure and if any amendments are put forward they may be discussed, or they may be taken up towards the end of our labours.

Chairman : It will be better towards the end of our labours if you want to do it at all. My own inclination is to leave it to the legislature. I am perfectly prepared to have a resolution put up defining "Agriculturist" for the purpose of this measure.

Mr. Brijnandan Lal : If we will do it at the end, some of our proposals will become useless, e.g., this proposal about income of Rs. 500. If we put a limit of Rs. 500 then all these amendments will become useless.

Mr. Sah : If the definition as given by the Poona Judge is taken up, in that case we would withdraw this amendment. The main idea is to benefit only poorer classes of agriculturists and not the richer classes.

Chairman : I would ask you to vote.

(The motion for adopting a tentative or provisional definition was put and carried.)

Chairman : I think you better accept as the resolution the definition that is actually in the Bombay Act; then take as an amendment to it the definition proposed by Mr. Boyd, in reply to some Commission, and then I would like to have further proposals. The Bombay definition is "Agriculturist means a person who by himself or by his servants or by his tenants earns his livelihood wholly or principally by agriculture or who ordinarily engages personally in agricultural labour".

Mr. Sah : As an amendment to this I would like to suggest that "Agriculturist should be taken to mean a person who ordinarily engages personally in agriculture in British territory, provided that his yearly income from sources other than agriculture does not exceed Rs. 300 and aggregate income from all sources does not exceed Rs. 600".

Mr. Brijnandan Lal : I want to amend the first definition. If we accept the definition as it is, we will be including big zamindars. I think if we want to exclude them then we will have to substitute some other word for the word "principally". We will have to say "who derives three-fourths of his income from agriculture".

Chairman : I am afraid you would not get what you want. The definition says "by his tenants earns his livelihood". The big zamindar also earns his livelihood through agriculture through his tenants. So as this definition stands, "Agriculturist" means a person who earns his livelihood by himself.

Mr. Brijnandan Lal : May I know what does "by his tenants" mean here? Does it mean one who engages tenants or does it mean one who realizes rent from tenants ?

Chairman : One who realizes rent.

Mr. Brijnandan Lal : Then it will have to be altered. By "Agriculturist" it would mean who gets land cultivated through his tenants.

Chairman : I have no doubt in my mind that the definition includes zamindars who collect rents, and you want to exclude them.

Mr. Brijnandan Lal : The entire committee wants to exclude big zamindars from the definition. The idea of the committee is that

they want to give the benefit to small agriculturists and not to the big ones. As a matter of fact the second definition limits it to Rs. 500 or Rs. 600.

Chairman: If you like you can stick to the second.

Dr. Mukerjee: It will meet Mr. Brijnandan Lal's point if we say "Agriculturist is one who undertakes personally farming operations". A good many measures which have been proposed are meant to protect the interest of the tiller of the soil.

Chairman: It seems to me that the second definition is exactly what you are asking for.

Dr. Mukerjee: The second definition gives an economic criterion in the form of income which is not acceptable without a very careful enquiry with special reference to this province. So that it will meet Mr. Brijnandan Lal's wishes better if, without mentioning any kind of income as test of an agriculturist, we should simply say an "Agriculturist is one who personally undertakes farming operations". In this definition I am thinking of the cultivating zamindar and not of the rent-receiver.

Chairman: It is exactly why I was unwilling to define. That is difficult to define in a committee until you have something more clear. You have got a taluqdar with an income of five lakhs a year who engages personally in agriculture: you have got to modify your definition if you are going to exclude him. It is not an easy task.

Maulvi Muhammad Obaidur-Rahman: It will entail long discussion.

Chairman: "Agriculturist" should be taken to mean a person who ordinarily engages personally in agriculture in British territory, provided that his yearly income from sources other than agriculture does not exceed Rs. 300 and aggregate income from all sources does not exceed Rs. 600.

Mr. Sah: I would like to add these words after "personally": "or through servants or through tenants". My whole object is to include smaller zamindars as well.

Chairman: The big zamindar does not come in here, because his aggregate income is more than Rs. 600.

Dr. Mukerjee: I would omit the whole sentence from "provided", so that the definition would read: "Agriculturist is a person who ordinarily engages personally in agriculture in British territory."

Chairman: It will also include the big zamindars. But I am quite ready to put Mr. Mukerjee's definition.

Mr. Brijnandan Lal: In the first definition I would suggest that the words "his livelihood wholly or principally by agriculture or who ordinarily engages personally in agricultural labour" be deleted and the definition should read: "Agriculturist means a person who by himself or by his servants or by his tenants earns three-fourths of his income by agriculture."

Chairman: You mean to say that "Agriculturist" means a person who by himself or by his servants earns at least three-fourths of his livelihood by agriculture.

Babu Madhusudan Dayal: I will propose that "three-fourths" be deleted. Then the definition will run: "An Agriculturist means a person who by himself or by his servants earns his income or his livelihood wholly or principally by agriculture."

Rao Krishnapal Singh: I would like to put it in this way. It should be in a negative form: "An Agriculturist is a person who does not do money-lending, carry on trade of any kind or industry or commerce, whose chief source of income is derived from land, and who ordinarily resides on his land unless incapacitated by ailment or disease or prevented by public duty." It would do away with absentee landlords.

Dr. Mukerjee: I just want to modify the definition a little. It would read: "An Agriculturist is one who depends for his subsistence principally on agriculture, provided that the land revenue which he pays to Government does not exceed Rs. 200 or the rent he pays to zamindar does not exceed Rs. 400."

Mr. Habib-ullah: I would adopt the Bombay definition with the modification that his land revenue does not exceed Rs. 500.

Mr. Sah: It seems that we all are agreed that a limit should be put.

Chairman: Not all.

Mr. Sah: Most of us. Mr. Habibullah does not want to exclude tenants at all, but there are certain tenants who are tenants as well as zamindars and then they carry on other avocations too. There are people who can afford to pay the contractual rate of interest and who do not want the benefit of this. Secondly, revenue varies in different parts of the province. In Meerut it is much higher; in permanently settled districts Benares, it is high; in the hills it is least. In the hills when a man pays Rs. 100 he is worth a lakh. As a matter of fact there can be no fixation of *haisiyat* of a person in terms of revenue.

Chairman: We shall have to except Kumaun and Garhwal.

Mr. Sah: Kumaun should have the benefit of all these provisions. The best way of limiting is by the limit of income.

Rao Krishnapal Singh: My objection to the first amendment is that it would eliminate most of the tenants who sublet holdings and they will not be included in that. I do not suppose it can be done. A majority of the tenants do sublet the holding and do not have anything to do with agriculture directly. I would like to say a few words in favour of my amendment. The reason why I excluded some of the people is that this definition will only apply to those who will derive benefit from our recommendations and it is only meant to benefit those who have lost due to unfortunate conditions in the agricultural industry, and would include people who though earn Rs. 100 a year from agriculture but have large income from other sources. We shall be benefiting the wrong class of men. Therefore it is much better that we should not include those people who carry on other kinds of trade besides agriculture, and whose main profession is not agriculture. That is one reason why I wish to exclude some of these people. Then the second

condition will be that it will not extend the benefit of our recommendation in case of the absentee landlord and that is one thing which is of great importance. Landlords leave their land, go and live in large cities, spend most of their time in luxurious living, riding motor cars, live away from the tenants and wasting the income of the tenants which should be utilized in the improvement of their lands. That is my second reason why I would leave out people who do not live on their estate and live in cities. The third reason why I do not put any sort of limit as regards income is that if we look at page 102 of the Banking Enquiry Committee Report we find that a zamindar is more heavily indebted than the tenant; not only more heavily, he is indebted 24 times more heavily than the tenant. These figures show that the zamindars need relief as much. They may have better assets though they are far more heavily indebted than the individual tenant. Therefore they should be included in the definition. There is another cause. The adverse agricultural conditions have affected large zamindars as much as smaller ones. Therefore I exclude those people and I do not fix any sort of limit of revenue or rent.

Maulvi Fasih-ud-din: I want to say one thing. I quite agree with the principle that underlies the amendment of Rao Krishna Pal Singh, but I am afraid that it is not very well worded. The first part says that agriculturist does not mean so and so, and then later on it says that the agriculturist means one who lives principally on agriculture. In other words, so far as the wording goes, every man who engages in trade although his avocation may be principally agriculture will be excluded from the definition of "agriculturist". So these wordings will have to be amended a bit. The Bombay definition I think is sound enough. It does exclude all those who live principally on trade and money-lending and so on, because that definition says that agriculturist means one who lives principally on agriculture. As to the other point that has been raised by Rao Sahib, viz., that those who are resident in the villages should not have the benefit of this measure. But the Rao Sahib has quoted from the Banking Enquiry Committee Report that the zamindars are very heavily indebted. I do not see any reason in the first place why those whose lot happens to be to live in the towns should be excluded from the benefit of this law, and the second point that I wish to point out is this that it is most difficult to define the word "resident". A man may be residing in one town or a small town where the Town Areas Act applies and he may be owning about two dozen villages. Then will he be resident in those two dozen villages or not. He cannot certainly live in every village. So it is very difficult to decide as to what is the meaning of a resident zamindar or a non-resident zamindar. The term is not clear to my mind. I personally think that the definition of Bombay covers everything. I do agree with the Rao Sahib that the definition that an "Agriculturist" is one who personally engages in agriculture is most objectionable, because I think at least 50 per cent. of the tenants who have sublet their holdings will be excluded from the benefit of

this law. So that definition is out of the question. I think that for the time being we must accept the Bombay definition and leave it to the Council to alter it in any point that it likes.

Dr. Dubey: I am afraid I have to oppose Rao Krishna Pal Singh's amendment and support that of Dr. Mukerjee. Rao Krishna Pal Singh has suggested that one of the restrictions with regard to an agriculturist should be that he should not be engaged in trade. As a matter of fact I know of some Muslim villages where agriculturists are engaged in cattle breeding. Some of them are dealing in cattle, and almost all agriculturists who have dairy products carry on a certain amount of trade. So it is very difficult to put a sort of restriction that agriculturists should not be dealing in trade at all. The second point mentioned by Rao Sahib is that he should not be carrying on business of money-lending. That is very difficult. According to the Banking Enquiry Committee Report 40 per cent. of the credit in the United Provinces is supplied by the landlords themselves; another 14 per cent. is supplied by the tenants. In this way more than half of the credit in the United Provinces is supplied by the agricultural classes themselves. It means that you are not going to extend protection to those people at all. Just now he drew a picture of large zamindars. He says on the one hand large zamindars are leading luxurious lives, they have extravagant habits and so on, while on the other hand he wants to extend protection of these very extraordinary provisions to those persons. Personally I am inclined to think: give protection, do honestly give protection to those very persons who really require it, but do certainly exercise a discretion in giving such protection to those people who are already extravagant. Therefore in making such limitations it would not be right that large zamindars should also have the same amount of protection as the smaller ones, or the cultivators themselves. The whole fact is that a great amount of the present agricultural debt in the United Provinces is really not agricultural. This is non-agricultural. It is very necessary that this committee should pause somewhere with a view to decide as to the extent to which we should give protection and beyond which we shall not go. Dr. Mukerjee's proposal is perfectly sound and I support it. He says "provided that the land revenue he pays to Government does not exceed Rs. 200 or the rent he pays to zamindar does not exceed Rs. 400." A person who has got 30 or 40 acres of land will be paying Rs. 400 of rent and a person holding 100 acres will be paying Rs. 1,000. Excuse me, Sir, I have experience of the Meerut district so far as the question of rent and revenue is concerned. I hope that according to the United Provinces Settlement Committee Report published some 7 or 8 years ago, 83 per cent. of the landlords of the United Provinces pay land revenue to the extent of less than Rs. 100. It means that if you extend the benefit of protection, if you go beyond the figure of Rs. 100 to the extent of Rs. 200, you will be providing protection to more than 83 per cent. of the landlords in the United Provinces. On

these grounds I submit that the proposal of Dr. Mukerjee be accepted and that of Rao Krishnapal Singh be rejected. I am very sorry that I have once more opposed Rao Krishnapal Singh's proposal, but it is in the best interests of the people concerned. I cannot help it.

Mr. Habib-ullah: There is very little difference between my proposal and that of Dr. Mukerjee. He tries to exclude small zamindars, while I do not. There should be no exclusion of any kind of zamindar, because as pointed out by Rao Sahib the zamindars are at present more indebted comparatively than the tenants, and this Bombay definition says "Agriculturist means a person who by himself or by his servants or by his tenants earns his livelihood wholly or principally by agriculture or who ordinarily engages personally in agricultural labour." This covers really both cases. In order to meet the wishes of this committee that large zamindars should be excluded, I propose a limit of Rs. 500. I do not mind going even to Rs. 1,000 if they say they are small zamindars. It is a question of fact and not of principle. But I would certainly accept the best of all the definitions that have been suggested. For example a gentleman there suggested that he meant to exclude small zamindars. But as Rao Krishnapal Singh pointed out he does not only exclude small zamindar but also tenants who let out their land to sub-tenants. You will find cases in which tenants themselves do not principally or personally take part in agriculture. There are many cases: for instance take the case of a Thakur. If there is a Thakur tenant by his family tradition he employs labour, and the whole of his work is done by his labourers. Even in some villages Brahmans get their cultivation done through the labour class. How do you exclude them—labour and the tenants? If you bring any such exclusion you deprive both the tenant and the small landlord from the benefit of this. I think this definition should be accepted with this proviso that you may or may not put a limit of land revenue. This is the best definition.

Saiyid Jafer Hosain: This matter should be postponed till day after tomorrow, so that we may have time to think over the definition.

Mr. Rudra: Surely we can make up our minds when we have got seven definitions.

Chairman: Is it the wish of the committee that this should be postponed till day after tomorrow?

(The motion was put and carried.)

Chairman: I will try and get typed out these definitions and then circulate.

Babu Madhusudan Dayal: I propose with your permission that till "Agriculturist" is defined we must adjourn. We do not know actually where we stand. My impression all along was that this committee was appointed to give relief to the agriculturist and not to the big zamindars.

Chairman: Anyhow I cannot postpone. You must assume that one of these definitions will suit your requirements.

RAI SAHIB LALA ANAND SARUP and MR. M. L. SAH'S amendment that "the limit of the accounts to be reopened by the courts under this resolution should be Rs. 500" was then taken up.

Chairman: It is open to Lala Anand Sarup either to press for his Rs. 500 in the definition when we come to the definition day after tomorrow or press it now.

Lala Anand Sarup: I beg to withdraw my amendment.

Mr. Sah: This amendment is to add "these proposals should benefit not only agriculturists but those also who are engaged in financing agriculturists; and where a person has other avocations besides agriculture, they should apply to those debts only which were borrowed for agricultural purposes."

Chairman: I presume that the object of your amendment is that you feel that there is a chain of lenders from the banks down to the village money-lenders and if the legislature decides to cut down the debts of agriculturists it should also cut down the debts of the intermediate creditors.

Mr. Sah: That is the idea behind the proposal.

Chairman: You mean to say that if A, a town capitalist, lends something to B, who is lending in the villages, and the Government proceeds to cut down the debts which he has to collect from the agriculturists that he should in turn be able to cut down what he has borrowed from A in order to finance the agriculturists.

Mr. Sah: That is the idea underlying the first part of the resolution and about the other part I will speak later. The Banking Enquiry Committee found that most of the financing of agriculturists was done by small lenders, having as small a capital as Rs. 1,500. If these people are to lose a part of their money, the result will be that they will be absolutely ruined and then they will not be able to repay their creditors. They will not get any money from their creditors to advance to agriculturists, and as a consequence they will not be in a position to finance any further. So in order to protect the further financing of agriculture it is absolutely necessary that these people should also get some benefit.

Mr. Habib-ullah: I beg to propose an amendment that add after the words "in financing agriculture" the words "by dealing fairly with them."

Dr. Mukerjee: I would like to oppose this proposal. This committee have not suggested any measure of wholesale repudiation of debts. This committee is fully aware that agricultural capital is scarce in the country and this committee have not suggested any measures which would scare away such capital. If we accept a proposition like Mr. Sah's, there will be no limit to the extent of protection according to his logic.

Babu Awadh Bihari Lal: Is it in our scope to go into that matter at all. We are dealing with agriculturists only.

Chairman : I think it is within our scope. We can record our opinion. I can see perfectly well that it is quite a tenable point of view that if you are going to cut down what the man is to get of the borrowed capital that he has advanced, it is quite a tenable view that you ought to cut down what he owes to the creditor. Whether it is right or wrong I cannot say.

Maulvi Fasih-ud-din : The amendment of my friend practically means this that the money-lender who advances money to the cultivator should be safeguarded as against the money-lender from whom he had borrowed money. In the first place the wordings of his amendment do not exactly bring out this fact and secondly the safeguarding of the secondary money-lender—as I would call him—can very well be made under the Usurious Loans Act. This law is meant to safeguard the interest of the agriculturists as against the money-lender and not for safeguarding the interest of an intermediate money-lender as against any other money-lender from whom he borrows money. This secondary money-lender borrows money with open eyes and he knows that he has to invest it and make profit. So no measure which tries to safeguard the interest of the agriculturist can anticipate any risk which the secondary money-lender may have incurred and the most proper place for safeguarding the interest of the secondary money-lender will be the Usurious Loans Act and not the Agriculturists' Act. For that reason I think this amendment of his is thoroughly misplaced. Besides it will be very difficult to find out whether the secondary money-lender has actually borrowed money which he has lent to the agriculturist or not. A man may have got say Rs. 1,000 with him. He borrows Rs. 500 more in order to lend out Rs. 1,500. It would be impossible for any one to find out which of the loans that he gives out relates to the money that he has borrowed and which relates to the money that he had in his hand. So it will be a very impracticable proposal and it will be absolutely impossible for any man to find out what money he has borrowed and what money he has paid from his pocket in the matter of these agricultural loans. So I think this proposal is not only misplaced here but it is impracticable. The Usurious Loans Act will very easily cover these cases and when we come to discuss that Act our friend can bring up any amendment he likes.

Dr. Dubey : There are two points which I wish to place before you so far as the principle of Mr. Sah is concerned. I think in other countries the agricultural financing bodies have been assisted either by the State or by some other institutions. That is one thing. So far as the principle is concerned there is nothing wrong about it. Those who finance agriculturists should in their turn be assisted by some other bodies. There are one or two instances. Very recently I had to deal with a person who had lent out not less than Rs. 30,000 to agriculturists. He must have borrowed to the extent of 5 to 6 thousand from money-lenders in the city. Now I tell you that he found it absolutely impossible to pay off his 5 or 6 thousand rupees that he had taken from the city, because his debts to

agriculturists had absolutely frozen. When such debts become frozen and they constitute his assets, naturally it becomes very difficult for him to satisfy his creditors. Now there is no doubt about it that it is very difficult for us to decide as to where the chain will stop. In this way we can go on thinking of successive stages. At any rate the point is that the person who carries on agricultural financing does deserve a little sympathy on account of the recent conditions. It is with the best of intentions that he gives out money and he had borrowed money for that very object.

Babu Awadh Bihari Lal : Sir, the thing is we are not making any provisions to constrain money-lenders to lend at a very low rate of interest. One idea which I found prevailing in this committee was that if interest is reduced to a very low figure the money-lender will find no scope for his money and he will be compelled not to lend money to the agriculturists. We have not adopted any of such measures.

Mr. Brijnandan Lal : Nobody expressed that view, I think.

Babu Awadh Bihari Lal : It was said that agriculturists were bankrupt and still they could borrow at 6 per cent. interest and it was also said that money would be forthcoming for them. When we are affording facilities to agriculturists we are only eliminating those practices which are objectionable by themselves. We are providing against usuries, i.e., exorbitant rates of interests which are unreasonable and unconscionable. We are only providing against cumulation of interest to an extent beyond the capital, we are only providing here facilities for the debtors to have their accounts cleared. In the case of suspicions or in the case the rate of interest is too heavy, we are giving the powers to courts to reopen contracts to see whether there was anything unfair or any undue advantage had been taken of the weaker party. We are not distributing benefits to creditors or to the debtors. We are only in these measures removing those practices which are objectionable. So I do not think the money-lender or the money-lenders from whom the financiers are borrowing have any cause for grievance and any measures which we are proposing are for the agriculturists who are admittedly heavily indebted. I do not think the case of financiers from whom these money-lenders borrow does come in and they have no cause for grievance. If their transaction is fair, and the rate of interest is fair they have no cause to fear. We are making those provisions for equitable and reasonable loans and I do not think the financier should come in here.

Rao Krishnapal Singh : I think after our recommendations have been given effect to money will be available to the money-lenders and financiers from banks. We are proposing to set up other machinery, so that the bank will be able to advance money to the money-lenders at very cheap rates of interest. I think they will be able to utilize it. Instead of borrowing from the private money-lenders they will be able to make use of those institutions.

Chairman: I propose to put the amendment.

Mr. Sah: I want that an addition should be made: "that these proposals should benefit not only agriculturists but those who are engaged in financing agriculturists; and where a person has other avocations besides agriculture and financing agriculture, they should apply to those debts only which are borrowed for agricultural purposes or for financing agriculture."

(The amendment was put and lost.)

Chairman: There is another amendment in the name of Mr. Sah.

MR. M. L. SAH'S amendment "that in case the above amendments are not acceptable to the committee these proposals should benefit every debtor including debts borrowed from a bank and even to debts which have been repaid three years before the passing of the new measures" was taken up.

Mr. Sah: I beg to withdraw this amendment.

Babu Awadh Bihari Lal: Sir, I pointed out in the beginning that this resolution came in conflict with the other resolution about Usurious Loans Act. In the first place it says that in making up the account the court will reopen it from the commencement of the transactions. It does not say in what circumstances or in what conditions. Usurious Loans Act provides that if the rate of interest is exorbitant or if there is any unfair dealing on the face of it, then the court may reopen it. We suggest that the Act should apply to a transaction when it appears that the rate of interest is excessive or when the transaction was substantially unfair. These conditions I think should be inserted before this clause be passed. We should say: "that in making up the account the court may reopen it from the commencement if the rate of interest is exorbitant or that the transaction was substantially unfair." If every transaction was to be reopened from the beginning, I think there will be no end to it. It will be against the principles of loans. Even if the debtor makes an allegation that there was an unfairness or he had been deceived or larger amount was entered as a loan while a smaller sum was advanced, then of course the court will have jurisdiction to reopen. But to say that in every case the court will reopen the transaction from the commencement seems rather hard, and it will come in conflict with the provisions that were being proposed by us under the Usurious Loans Act. We may say "will reopen it if it comes under section 3(b) of the Usurious Loans Act".

Lala Anand Sarup: I support the amendment.

Dr. Dubey: Just there are two or three points I wish to point out. As a matter of fact the question of reopening of debts from the beginning bristles with many difficulties. I am inclined to think that there are three classes of debts, which require special consideration. The first is secured debts. I think that if the rate

of interest is found to be very high then alone a secured debt might be opened from the very beginning. Alternatively I do not think that we should break the sanctity of the past contracts in the case of secured debts. Secondly I am not in favour of reopening of already extinct debts. Suppose a person entered into a transaction within the last three years, and he had entered into another transaction some seven or eight years ago. When a suit is filed against him he quotes as an instance that he had an account with the creditor some seven or eight years ago and the transaction should begin from that time. Under these circumstances I should think that there ought to be a limit that already extinct accounts should not be reopened. They are time-barred. Thirdly, the question is of loans that are advanced by the banks and joint stock companies and other registered institutions. The Provincial Banking Enquiry Committee has said that there are some 70 such banking institutions in the United Provinces, although they definitely say that with the exception of one or two those banks did not deal with agriculturists. They have not advanced large amounts of agricultural capital. At the same time on principle I maintain that our recommendations in that connexion should not affect advances given by such registered institutions—banks and joint stock companies—unless it appears that the rate of interest charged by these institutions is exorbitantly high. These are the three particular classes of debts that I would ask the committee to take specially into consideration. When the question of reopening debts arises in such cases, I would say that our recommendation should be applicable only in very exceptional cases.

Chairman: I think a good deal of support is given to the proposed amendment of the honourable Rai Bahadur Babu Awadh Bihari Lal. If it is the sense of the meeting, I may put the amendment to the resolution first: "That in making up the account the court will reopen it from the commencement of the transaction if the rate of interest is exorbitant or excessive or if there is reason to suppose that the transaction was substantially unfair."

(The motion was put and carried.)

Chairman: Resolution II as amended reads: "That an Act should be passed enabling an agriculturist debtor to apply to a court for a statement of his account and for a decree.

That in making up the account the court will reopen it from the commencement of the transaction if the rate of interest is exorbitant or excessive or if there is reason to suppose that the transaction was substantially unfair; will prepare separate accounts for principal and interest; will allow compound interest only limited ordinarily to 9 per cent. per annum, on secured, and to 15 per cent. per annum, on unsecured debts subject to the proviso that in consideration of the risk taken by the creditor these figures may be raised to 12 per cent. per annum or 18 per cent. per annum respectively, and the court in passing the decree may order that it should be recovered

with or without interest, and if the instalments are not paid in time, the whole amount may become payable at once."

(The resolution, as amended, was put and carried unanimously.)

Manvi Muhammad Obaidur-Rahman Khan: May I know where will it be defined whether the rate of interest is excessive or not?

Chairman: It is defined at the end in Usurious Loans Act.

RESOLUTION III.

Mr. Wajahat Husain: The resolution runs:—

"That legislation should be undertaken to provide for the settlement of the unsecured debts of agriculturists, and that decrees should be limited to the amount which the debtor is able to pay within a reasonable period. That it should be enacted that on the application of an agriculturist debtor or on the filing of a suit against him for the recovery of a loan, the court will be required to hold a summary inquiry into his debts, his assets and his probable income and reasonable expenditure, and will grant a decree limited to the amount which this inquiry shows that he ought to be able to repay within three years (in the case of debts incurred after the commencement of the Act); and will dismiss the balance of the claim or claims. The court will fix instalments for the recovery of the decreed amount and these instalments will be timed to fall due along with some or all of the instalments of rents. Provided that if at any harvest the revenue and rent of the holding concerned be remitted or suspended for failure of crops and the instalment fixed under the decree be not paid, the court (or the Collector, if executing the decree) may extend the period of three (four) years to a subsequent harvest, but that the total of such extensions may in no case exceed a year and a half. Any portion of the decree not collected within the period fixed or extended for failure of crops will be irrecoverable at law."

Chairman: Mr. Sah suggests that in the first paragraph for the words "four years" substitute the words "six years".

Mr. Sah: I am not very particular about it. I will support Rai Sahib Lala Lala Anand Sarup's amendment.

RAI SAHIB LALA ANAND SARUP'S amendment that in paragraph 1, for the words "three years" substitute "five years" and for "four years" substitute "seven years." Delete "any portion of a decree not collected within the period fixed or extended for failure of crops will be irrecoverable at law" was then taken up.

Lala Anand Sarup: Sir, it is very difficult to find out reasonable income and expenditure of a cultivator. This information is to be ascertained through patwaris and every one of us knows how honest they are. I think the basis of fixation of the instalment should be rent or land revenue. Suppose if a tenant is an occupancy one and pays Rs. 50 as rent, he may be expected to pay Rs. 50 yearly instalment; if he is an ex-proprietary

tenant he may be expected to pay Rs. 25 a year, and similarly if he is a small landholder and pays land revenue of Rs. 50 he may be expected to pay Rs. 50 as the instalment every year.

Chairman: Is not this quite new? It is quite different from the amendment.

Lala Anand Sarup: Sir, these are the reasons for which I propose that the period be enhanced to five and seven years, which may enable the creditors to get his money back by instalments. I have increased the period so that the tenants and the zamindars will be able to repay the amount by easy instalments. If you will have three or four instalments, it will be very difficult to repay the debts. My point is that easy instalments may be made by which the agriculturists and cultivators may be able to repay the amount.

Mr. Rudra: The amendment proposed is: "delete 'any portion of the decree not collected within the period fixed or extended for failure of crops will be irrecoverable at law'." If any portion of the decree is left uncollected and the agriculturist is willing to pay up, why should he not be allowed to pay? If we will have this provision nobody will pay. I think we should leave it to the parties. We should not have such a clause in the Act.

Chairman: Do you mean to say that creditor should be allowed to distrain again?

Lala Anand Sarup: No, they should not be distrained: he has got a decree and if that decree is paid by instalments he can get the amount in five or seven years. If any balance is left, it will be left to creditor whether to recover it or not. It should be simply at the pleasure of the debtor. If we do not have this provision, then it is just possible they may pay at pleasure, otherwise not.

Chairman: It is just like a gambling debt—debt of honour. You cannot sue for it.

Mr. Sah: I support this amendment although I will oppose the main resolution later on. The three years' period in the resolution is very short and this four years' period is also very short. It is only in order to record this that I am supporting this measure. As a matter of fact it will be rather very difficult for a man to pay within three years and if it is raised to five years it is possible that part of the debt can be recovered, otherwise capital will become very shy and nobody will lend to agriculturists and it will react on future financing operations.

Dr. Mukerjee: I would like to point out one practical difficulty in the way of recovering the debt if we fix the number of instalments. Sir, in a province like ours, nay even in Northern India as a whole, scarcity years do not come singly. We find that the years of bad harvests have a knack of following one another. That is a great misfortune. If we have a resolution by which the decree would be limited to the amount which the person will be able to repay within the period of three, four or five years, there will be a great hardship. That is why I am suggesting that in view of the improbability of wiping out the

debt of the peasant in that way the money-lender would be better protected and so also will be the peasant if, when the court is satisfied that the amount of decree does not leave the peasant enough for the means of subsistence, the court may reduce the amount of the decree in the same proportion as the fall of agricultural prices in the locality during the period of the transaction.

Chairman: Are you speaking on another amendment?

Dr. Mukerjee: I am referring to that just with a view to explain the practical difficulty that will be realized. I am opposing it because I feel that no decree which will be limited to the amount fixed within three or four years will be recoverable, because bad harvests do not usually come in this province singly.

Rao Krishnapal Singh: I support the first part and I oppose the second part of the amendment.

Babu Madhusudan Dayal: Again the same difficulty arises here: what is an agriculturist—a cultivator or a zamindar? That is the whole difficulty.

Mr. Wajahat Husain: We are dealing with unsecured debts.

Babu Madhusudan Dayal: They can borrow money in the market on pro-notes.

Chairman: You can form your opinion without having a definition as to what an "agriculturist" is. After all our definition of "Agriculturist" is provisional, because the Council may alter the definition.

I will put the amendment in two parts. The first portion of the amendment is that for the words "three years" substitute the words "five years" and that for the words "four years" substitute the words "seven years."

(The amendment was put and carried.)

Chairman: The second portion of the amendment is that "any portion of the decree not collected within the period fixed or extended for failure of crops will be irrecoverable at law" be deleted.

(The amendment was put and lost.)

Chairman: We will now take up Mr. Rudra's amendment:—

In paragraph 1, for "four years (in case of debts incurred before the commencement of the Act)," substitute "up to the year 1925 (in case of debts incurred before the commencement of the Act)."

Mr. Rudra: I beg leave to withdraw it.

Chairman: Then there is the following amendment in the name of Dr. Mukerjee:—

In the first paragraph, omit "and will grant a decree, etc." up to "commencement of the Act."

Dr. Mukerjee: I withdraw this.

Chairman: What about the other part:—

In the first paragraph, omit "provided that, etc." up to the end of the paragraph and substitute "and in case the court is satisfied that the amount of the decree does not

leave with him, what is required for his subsistence and expenses of cultivation it will reduce it in the same proportion as the fall in agricultural prices in the locality during the period of the transaction."

Dr. Mukerjee: I withdraw that also.

Chairman: The following amendment stands in the name of Rai Sabib Lala Anand Sarup:—

Add "this resolution should apply to tenants only and not to zamindars and those tenants whose *hawsiyat* or credit is more than Rs. 1,000."

Mr. Sah: I propose that Mr. Anand Sarup's amendment may be postponed till the day after tomorrow.

Chairman: It is a far-reaching resolution itself. I want to get the opinion of the committee, whether the resolution in itself commends to the committee. How many people it happens to apply is really a minor consideration compared to the actual principle underlying it. So if Lala Anand Sarup withdraws it that is a possible way out of it, or he can have a vote on this definition at the present moment.

Lala Anand Sarup: I withdraw it.

Mr. Sah: As a matter of fact the deliberations of this committee are not final, so I beg to move the following amendment:—

Add "the benefits of this resolution should be extended not only to agriculturists but also to those engaged in financing agricultural operations."

Chairman: This amendment has been lost previously under resolution no. 2, now it has come under resolution no. 3. If it is relevant in the first case it is relevant now.

(The amendment was put and lost.)

Chairman: We now come to the suggestion of Rai Rajeshwari Prasad, that instead of an inquiry into the "probable income and reasonable expenditure" and "what is required for the agriculturists subsistence and expenses of cultivation," at the stage of passing a decree, these considerations should come up when the debt is being actually paid out. At the stage of the paying out of the debt the allowance for reasonable expenses and subsistence should be fixed (if at all) by limiting them to a certain percentage or fraction of the land or the produce of the land, out of which the debt is actually paid out.

Rai Rajeshwari Prasad: First of all I want to guard myself against being understood to mean to take away anything which might have been meant by way of relief for the tenants. I come now to the point. When I read resolution no. III along with resolution no. X, a certain amount of confusion was created in my mind. I found that the agriculturists will get an allowance for his probable income and reasonable expenditure at the time when the decree is being passed for his debts and also at the time of actual payment of that debt. My suggestion is that if an allowance is to be made for such a thing it should be made at the time of the actual payment of the debt, when the crop or land is being sold out. Resolution no. III says—"That it should

be enacted, that on the application of an agriculturist-debtor or on the filing of a suit against him for the recovery of a loan, the court will be required to hold a summary inquiry into his debts, his assets and his probable income and reasonable expenditure, and will grant a decree limited to the amount which this inquiry shows that he ought to be able to repay", and so on. So the court can scale down the debt to a certain extent if evidence is led to show that the family of the debtor is large, or that for other considerations like this it is possible for the court to scale down the debt. I find the same thing repeated under resolution under X. "That the Sub-Committee recognize that their other proposals must give a serious shock to the credit system and that it is essential to take some measures to maintain the flow of credit; that to this end they would urge on the sympathetic consideration of Government that when debts have been reduced by a Conciliation Board or by a court to an amount which is within the capacity of the debtor to pay they should offer to advance directly or in conjunction with a land mortgage bank or other institution the whole or a portion of this debt to the creditor, and recover the loan as *tagavi* from the debtor, the loan to be a first charge on the land or its produce after the payment of rent or revenue subject to leaving with the debtor what is required for his subsistence and the expenses of cultivation."

The proposals in resolution no. 10, lead me to think that as the proposal stands the allowance has been made twice over the same thing. I suppose that the latter stage is more appropriate for making an allowance for such a thing. This is only a suggestion and if it meets with the approval of the committee, I will move a definite amendment.

Chairman: In resolution no. ~~X~~ "the loan is to be a first charge on the land or its produce after the payment of rent or revenue, leaving with the debtor what is required for his subsistence and the expenses of cultivation." But as far as resolution no. III is concerned, it merely means that the instalments will be fixed after allowing for the expenses of cultivation and reasonable subsistence. Later on if the loan is advanced through a land mortgage bank, that loan is to be a first charge on the land or produce, subject to payment of land revenue and reasonable expenses. It is entirely changed. His old debt is paid off and he has got a new loan. I read no. 10 to mean that if a loan is paid by a third party, e.g., Co-operative Bank, then it should have a first charge on the land, subject to allowing reasonable subsistence to the cultivator. Resolution no. 3 is merely that the decree of the court is to be an amount which he can pay within three years, now increased to five or seven years, as the case may be, and the instalments also are to be fixed with reference to the expenses of the cultivator. I do not quite see how he can make out an account. The court must reasonably make up the account. The court cannot fix the amount which he can pay reasonably, without having gone through the expenses of cultivation.

Raj Rajeshwari Prasad: My point was that I do not like the court to make the allowance at the time of passing the decree.

Chairman: In that case you are opposed to the resolution? The court shall take into account the capacity to pay. If his debt is one lakh, and his *harsiyat* is only Rs. 10,000 the court will not give a decree for more than Rs. 10,000. At present, if the debt is a lakh the court has to give a decree for a lakh and the creditor can recover. This proposal is that the court should reduce the decree, irrespective of the amount owed, to what a debtor can fairly be expected to pay.

Mr. Sah: Before the discussion of the main resolution is taken up, may I suggest that the second paragraph should form part of the resolution, i.e., "The sub-committee while accepting this resolution recognize that it will not be effective unless the debtor is in a position to obtain the short-term capital which he requires during the period of liquidation: whether through the help of a co-operative society or as *tagavi* or from some other source. The legislation proposed will not by itself provide a short cut to the liquidation of agricultural debt though it may enable the Co-operative department or Government to assist debtors to freedom which otherwise they would be unable to attain."

This resolution is a very drastic resolution and it is very necessary that the cultivator should be in a position to obtain capital in order to finance future agricultural operations. For this reason, I say, that this paragraph must form part of the resolution.

Chairman: I have no objection.

Thakur Muneshwar Bakhsh Singh: In this resolution the court has been given unlimited power to reduce the principal and the interest both. But I do not think it advisable that the court should be given the power to reduce the principal. There is no provision in this resolution which will restrict the court's power to reduce the interest only. So I will add a proviso,—

"provided that the decretal amount in no case be less than the amount originally advanced."

Chairman: Are you not simply opposing the resolution? It is no use putting proposals which will cut the resolution into pieces.

Hafiz Hidayat Husain: I am opposed to the resolution altogether, and the reason why I am opposed are found in the sub-committee's report, which says—

"The sub-committee while accepting this resolution recognize that it will not be effective unless the debtor is in a position to obtain the short-term capital which he requires during the period of liquidation: whether through the help of a co-operative society or as *tagavi* or from some other source. The legislation proposed will not by itself provide a short cut to the liquidation of agricultural debt though it may enable the Co-operative department or Government to assist debtors to freedom which otherwise they would be unable to obtain."

The entire resolution is to my mind impracticable if we visualize what will happen in a case like this. Suppose a debtor comes before a court and the court white-washes part of his debt, then the result of this will be that the tenant will always know that a portion of the debt in any case will be written-off and will not be anxious to pay off the debt and will not be able to put industry to his work, which he would otherwise. You may, Sir, in this connexion like to refer to the Poor Law of England and America. There too an attempt was made to help the poor, and the result of this was in many cases disastrous to the finances of those countries because we find that sloth has increased and labour is at a discount, with the result that a very large strain has been put on the financial resources of those countries. My point is, suppose this law is passed, then the tenant will not pay off his debt from his own resources, he will have to go to the Government for *tagavi* or to the Co-operative Society. Now even in Co-operative Societies the bulk of the capital will have to be supplied by the Government, and if it is *tagavi* then the entire money will come from the Government. It means that the Government will be required from year to year to borrow large sums of money in order to help the slovenly habits of the tenants. My submission is that by accepting a resolution like this we will be putting a premium on the slovenly habits of the tenants which might tell on the resources of the province, which are already over-laden with taxation. I think I can foresee that if we go and help the tenants like this we will have to shoulder greater financial responsibilities than we are doing even now. For this reason, because it is impracticable and I see so many difficulties in the way, I oppose the amendment.

Babu Awadh Bihari Lal: May I know if the phrase at the end, "any portion of the decree not collected within the period fixed or extended for failure of crops will be irrecoverable at law," has been retained?

Chairman: Yes.

Pandit Gursewak Singh Upadhyia: Sir, I just rise to explain the principle underlying this resolution as I understand it, because I believe that the opposition had, from my point of view, misunderstood it when it said that if this resolution is passed the tenants will get slack and it will strain the financial resources of the Government. I may be permitted to explain the principle underlying it, and the House will, of course, be free to vote as it likes. The Royal Commission on Agriculture and certain other Commissions, after inquiry found that there was a large number of tenants, agriculturists, from whom it was impossible to recover any amount, and they thought that it did not make for health in body politic to leave such men without help and without hope. They got slack because the sword is hanging over their head and they are not able to pay anything at all or a very small part of it. If we let them know the reasonable amount which they could pay within three years, or, as the House has passed, five years or seven years, they will try their utmost to get the produce and also save

a little and pay. I have not been able to follow the argument of my honourable friend. The fact is like this. If the man is not able to pay off even in his lifetime, the debt passes on to his son. It is not an exaggeration; actually there have been cases like this. It is a question of national interest. If you make the man free after three or five years, he will certainly take heart and probably he will be able to work better and become a better member of society.

As regards financial resources I do not know how this will affect them. The debtor is required to make a saving, and out of his saving pay the debt adjudged in three, five or seven years. Therefore it does not affect the taxes or Government resources.

Babu Awadh Behari Lal: Why should he make a saving?

Pandit Gursewak Singh Upadhyia: If he is at all honest he must make a saving. There is no question of Poor Law. Even under the Insolvency Act you find that when the debt is not recoverable the man is declared insolvent, and what is recovered from his assets that is only paid. No Government or no Co-operative Society goes to help him after the decree is passed. So I do not think any parallel exists between the Poor Law and the proposal put forward. The parallel is there between the Insolvency Law and the liquidation of debt. For cases where money is irrecoverable I do not know if there can be any better proposition put forward as a solution. This idea has been taken from the suggestion of the Labour Commission. They have explained this at great length and also suggested what kind of law there should be to give effect to liquidation of debt. I would request the House to remember that it applies only to cases of unsecured debts. Suppose there is a zamindar who has got a pro-note that is unsecured; however he has got large assets, he has got his zamindari, therefore it should still be dischargeable.

Babu Madhusudan Dayal: But who is an agriculturist?

Pandit Gursewak Singh Upadhyia: Even without the definition of agriculturist we can proceed. We find that it has been said that the court in passing a decree will take into consideration his assets and his income and expenditure. So that whether 'agriculturist' includes the zamindar or tenant or any one else, that does not matter at all. Supposing he is a zamindar, and it is simply a pro-note, his property is not mortgaged, still when the court passes a decree it will take into consideration his assets, and therefore the decree may be for the whole amount.

Babu Madhusudan Dayal: His expenditure will be more than that of the poor cultivator.

Pandit Gursewak Singh Upadhyia: His expenditure will be more than that of the poor tenant, but he has got a larger property and the court will take that into consideration, the court will not take into consideration his extravagances to find out his savings.

Babu Madhusudan Dayal : Who knows it ?

Pandit Gursewak Singh Upadhya : The court cannot take into consideration the extravagances. It will take into consideration the ordinary normal income and expenditure.

Babu Madhusudan Dayal : If he lives in the hills, because he has been brought up on the hills ?

Pandit Gursewak Singh Upadhya : I hope my friend will not be the court. You must have confidence in the justice and sanity of the court, when the court takes into consideration the income and expenditure it must take into consideration the normal income and expenditure and not the extravagances that the man might have been committing. The House will please remember that this resolution relates only to persons who cannot really pay, from whom it is impossible to recover. The money-lender must know that it is impossible to recover any amount or perhaps a very small part of it. It does not relate to solvent persons, it really relates to insolvent persons.

Dr. Dubey : It relates to any one who applies.

Pandit Gursewak Singh Upadhya : Any one who applies but who is really insolvent.

Dr. Dubey : Almost every one is insolvent today, so far as the agriculturists are concerned.

Pandit Gursewak Singh Upadhya : Suppose a zamindar has got property worth Rs. 10,000 and he has to discharge pro-note of Rs. 5,000 he cannot be considered to be insolvent.

Babu Madhusudan Dayal : Then the court will reduce by half, principal and interest.

Pandit Gursewak Singh Upadhya : I would like to explain it. If he has got property worth Rs. 10,000 and the debt is Rs. 5,000 why should the debt be reduced by half: there is the property worth more than Rs. 5,000. So in that case it will not be reduced.

Dr. Dubey : It won't be sold.

Chairman : If the property is saleable it will be sold.

Pandit Gursewak Singh Upadhya : I hope I am making myself clear, that if a man has an asset of Rs. 10,000 and his debts are Rs. 5,000 the decree cannot be for less than Rs. 5,000. This relates to persons who are really insolvent, that is for whom it is impossible to pay off the debt. This resolution contemplates only those cases, and only to get honestly a portion of the debt out of the man. This resolution makes provision for the man who goes before the court, or the creditor who makes an application, when the court finds that the debtor can pay within 3, 5 or 7 years so much amount after meeting the necessary expenses, a decree will be passed. I think it will be in the interest of both the debtor and creditor, and the body politic that such a course should be taken, so that the man after he has paid his debt will be a useful member of society. That is the only object and that is the principle underlying this resolution. It will not in any way encourage the debtor to become slack.

Babu Awadh Bihari Lal : I have to oppose this resolution entirely. In the first place it is affecting British justice,

on which all loans and all creditors and debtors depend. We are giving powers to a court to assess the debtor's assets and his liabilities and to reduce the debt actually due on certain considerations. We have made provision for reconciliation boards, which will try and find ways to settle the debts as best as it possibly can. We have made provision for transfer of these decrees to the Collector, who has to make further efforts to repay these loans by whatever means possible, and still we are giving the courts power to reduce the actual amount due on consideration of the man's capacity to pay. In every case these are the functions of the court executing, or the officer executing, or the board reconciling, but courts' judgment should not be effected by these considerations. No creditor would advance money if he knows that the amount could be reduced arbitrarily by the court. Then we should consider what powers we are giving to the court. The court will be required to hold a summary inquiry into his debts, his assets and his probable income and reasonable expenditure. It is not only the assets against his debt, but reasonable expenditure on his household and on his maintenance. If this were applied to zamindars the assets would not be the value of the property of the zamindar, but what out of the income he will spend and what he will save. The creditor is entitled to place his zamindari property to auction and realise the whole amount of his debt. Suppose a zamindar has an income of Rs. 1,00 out of that he wants Rs. 50 for his own maintenance, and it is only Rs. 50 which goes to the creditor, while the creditor has the right to put the whole property to auction, and realise the whole value of the property. In the case of the tenant the comparison has been made with an insolvent debtor. I think there is a very great difference between the two. In the case of insolvency the present assets are taken over by the liquidator and the creditors are paid off out of that, or whatever assets are realisable. In this case it depends on the future earnings of that very tenant by which the debt will be liquidated, and, as my friend suggested, he will not be at all enthusiastic about his future earnings, about his savings which he makes from his holdings, if he knows that after three years his debt will be written off. I think this is a novel procedure. No court has power to reduce the decree on consideration of the future difficulties that will arise in realising the debt. I think we have made sufficient provision, we have conciliation boards, we can transfer decrees to Collectors and give them power to exert all methods for realising the amount. Of course whatever amount is left unrealised it will remain unpaid and be lost to the creditor.

Dr. Dubey : I am inclined to agree with the Khan Bahadur and the Rai Bahadur on my left rather than with the Rai Bahadur (Pandit Gursewak Upadhya) on my right. Now these are summary insolvency provisions in sugar-coated language. I think it is one of the most controversial points that the Committee is called upon to discuss: that in future a tenant should be allowed to show all his assets to a court of law and get a decree in accordance with his ability to pay. I agree with Mr. Upadhya

when he says that the Agricultural Commission recommended some sort of simple insolvency provisions. I again agree with him when he said that the Labour Commission went into the whole question and suggested that some sort of simple insolvency law should be enacted, but that was only in the case of labourers and factory operatives. So far as the recommendations there are concerned they are not at all germane to our discussions here. The whole point is that at the present moment we are concerned with some measure of relief to the agriculturist. I read in one of the notes that were placed before us last, the views of Mr. Mudie. He has definitely said: "One of the most important things that we have got to guard against is that there should be no contraction of credit in future. At the present moment the present agency supplies 95 per cent. of the credit in the rural areas, only 4 per cent. is supplied by the co-operative societies, and 1 per cent. is supplied by the Government." Now I know that at a moment like this, most of the agriculturists are living from hand to mouth. I have seen with my own eyes, dozens of cattle being driven by the revenue staff of the Government from the farms of the agriculturists to the cattle pound, with a view to extort from the agriculturists the rent and revenue, and also other Government dues. Such a procedure I have never seen in my life before. The whole point is that under the circumstances that are existing at the present moment, almost all the agriculturists will be tempted to take advantage of such a simple insolvency provision, when they know that they will be able to get rid of their debts easily. Now most of the members here must have got intimate knowledge of the rural areas, and they will bear me out that it is very easy for agriculturists to dodge their zamindars, or their money-lenders—sahukars, just for a few years. They can go on dodging for three or four years, so far as the execution of the decree of the court is concerned. There will be no stimulus left in these people to earn a little more just to make a saving for the purpose of paying their creditors. In the circumstances, I am inclined to think that no premium should be put on the habit of the people to declare themselves insolvent. I therefore entirely agree with the proposal of Khan Bahadur Hafiz Hidayat Husain that this clause should be entirely omitted.

Rao Krishnapal Singh: I could not quite follow Rai Bahadur Babu Awadh Behari Lal when he said that this provision is opposed to English Justice. I do not see how he thinks that English Justice can be applied in all cases successfully to Hindustani *ghis ghis*. We cannot do everything here that can be done in England, Germany and France or other wealthy countries. In England—though I have not been there, but I had occasion of learning from those who had either lived in that country, or who visited it—in one place, Charing Cross, the number of Rolls Royce alone is far more than the number of Ford cars in the whole of Lucknow, which is our biggest town. Well, Sir, conditions prevailing in England are so different that we cannot apply all those provisions which are applicable there to conditions in these provinces. The other thing that struck me was that although

he has so much faith in English Justice, he did not have an equal amount of faith in the courts that have been established under that law. I think when a matter will be referred to the courts for being looked into, and before the amount of loan is reduced, the courts will have an opportunity of inquiring into the kind of loan and the nature of the assets of the debtor. I am sure we can have that much of faith in them that they will do justice, and if they find that the man who has made the application has got enough assets and can pay the debt, they will not apply this procedure in his case. It is a wonder that in these times, when big and wealthy States of Europe are thinking of moratorium, we should grudge this kind of provision in the case of poor agriculturists. Mr. Dubey; himself, has described the plight of the agriculturists by saying that he has himself seen cattle being driven from a village for realising Government dues. I know instances where not only the zamindar's and not only the tenant's estates have been sold or attached, but there have been instances and instances in a wealthy district like Bulandshahr, just a neighbouring district of Dr. Dubey, where recently a respectable zamindar's—I am sorry to say he is also a member of the Legislative Council—womenfolk's ornaments were attached and were taken possession of by the revenue officer of the Government. When things have come to that stage is it not proper for us to consider enacting some provision of a drastic nature like this? In ordinary times if the agriculturist had been solvent, if the province had been prosperous, we could not have been justified in lending support to a provision like this but when the conditions are so different, when people have not got enough food to eat, when they have not got enough clothes to wear, when they are heavily in debt, when they cannot even retain the necessary ornaments for their womenfolk in the house, some provision of this kind should be enacted, and some kind of relief of a drastic nature should be applied. I am sure the Committee will retain this provision because a drastic provision is certainly meant for the extraordinary conditions that we have before us.

Dr. Mukerjee: I think that in a resolution like this we should be actuated by a profound sense of justice, whether English or Indian, I do not differentiate. The debt situation in this province, briefly put, is this. The total agricultural debt of this province is somewhere about 124 crores, and this has been on a cumulative increase. The second feature about this debt is that a very large portion of this debt is absolutely irrecoverable. Full 56 per cent. of the holdings of these provinces are below the economical size. These are uneconomic and no amount of relief measures can make such a holding undersized profitable. On such a reckoning you may almost say that 30 or 40 per cent. of the existing debt of the province is absolutely irrecoverable.

The third feature of the agricultural debt situation of this province is that a relatively large proportion of the small holder's debt is for productive purposes. This revelation has been the result of the inquiries undertaken by the Banking Inquiry Com-

mittee. Agriculture as an industry is far different from other business. I am speaking not on behalf of the peasant, the tenant or the money-lender, but I am speaking as a citizen actuated by a sense of justice, when I say that we should not allow credit to be used for unproductive purposes and at the same to keep the land going growing, the food of the nation in full and abundant measure. Now if a large proportion of the agricultural debt of this province is absolutely irrecoverable, surely it will be for the good of the money-lender, and his business, agriculture, that such steps, as are recommended in this resolution, be effectively undertaken to wipe out a large portion of the debt which cannot be redeemed. The argument has been put forward that thrift will disappear, that such a measure will put a premium on dishonesty and improvidence. If you look at these village surveys that have been undertaken you will find that a very large proportion of the debt is due not to social extravagance, but actually to productive and unavoidable purposes, to use the Hon'ble Mr. Blunt's language. If you wipe out that portion of the debt which is absolutely irrecoverable, you won't discourage improvidence. On the other hand, thrift will come when the peasant has some hope and promise for the future. If the peasant is bound down from generation to generation, crushed by a burden which he cannot endure, if hopelessness is writ large on his face, no agriculture worth the name can be undertaken in these provinces. So it is in the interests of both the money-lender as well as the agriculturist of the land, that such a drastic measure ought to be undertaken. I fight shy of a word like 'moratorium'. Surely a resolution like this does not go far to suggest even an inkling of a moratorium. It only puts forward the view that in cases where the debt is absolutely irrecoverable, where the recovery of debt means that the peasant is without the means of subsistence, and what is more even without the expenses of cultivation, we won't in the interests of nation allow the land to lie fallow because of inadequacy of credit. This in order to keep agriculture going, in order to keep the money-lender's business going, such a resolution is absolutely indispensable.

Mr. Sah: My learned friend and colleague of the Banking Inquiry Committee, appealed to justice. It would have been much better if he had given a definition of justice. I think the best definition of justice is to give a person his due, even if he be the devil. As a matter of fact, by this resolution we are not giving a person his due, but taking away what is due to him.

The second argument that he advocated is that it applies only to irrecoverable debt. The language of the resolution does not say so. It says, "That it should be enacted that on the application of an agriculturist debtor or on the filing of a suit against him for the recovery of a loan, the court will be required to hold a summary inquiry into his debts, his assets and his probable income and reasonable expenditure, and will grant a decree limited to the amount which this inquiry shows that he ought to be able to repay, within three

years (in the case of debts incurred after the commencement of the Act) and four years (in the case of debts incurred before the commencement of the Act) and so on.

All that this resolution means is that as soon as a suit is filed against a person, the court will hold an inquiry into the man's assets and income, and even if his *hvisiyat* be 50 times the amount of his income the court will pass a decree limited only to five years' income. Is it not denying the creditor what is due to him? As a matter of fact the resolution strikes at the very root of English law, Indian law, as well as Hindu law, which says that a man cannot get into heaven, until and unless his debts are paid, even though they are paid by his son. We are blaming the Soviet Government for repudiating the debts, but what are we doing here? It means nothing but saying ditto to what they are doing. As a matter of fact, the Soviets are relieving the indebtedness of a far greater number of people than the agriculturists that of the proletariat.

Chairman: The resolution is as printed, except that three years has been increased to five years and four years to seven years.

(The motion was put and lost.)

Chairman: I am afraid I have got very little time to do this. I do not like working on Sundays, but if you don't mind we will meet tomorrow at 10-30. I will try to have this definition of "agriculturist" typed, for circulation, so that we can vote more easily.

Dr. Dubey: I suggest that a sub-committee of the following members be formed, to consider the definition of the word "agriculturist":—

Rao Krishnapal Singh,

Dr. R. K. Mukerjee, and

Rai Bahadur Babu Phul Chand Mogha.

Saiyid Jafer Husain: I suggest the name of Khan Bahadur Hafiz Hidayat Husain.

Rao Krishnapal Singh: I beg to withdraw in favour of Khan Bahadur Hafiz Hidayat Husain.

Chairman: It is proposed that a sub-committee consisting of the following three members be formed to consider the definition of the word "agriculturist":—

Dr. R. K. Mukerjee,

Khan Bahadur Hafiz Hidayat Husain, and

Rai Bahadur Babu Phul Chand Mogha.

(The proposal was accepted.)

(The Committee then adjourned till the next day.)

Proceedings of the Agricultural Debt Committee meeting held at Brookhill Lodge, Naini Tal, on July 3, 1932.

RESOLUTION IV.

Chairman: Gentlemen we may begin now. We will now deal with resolution no. IV.

Mr. Wajahat Husain, will you kindly read it?

Mr. Wajahat Husain: The resolution runs:—

“That all money-lenders, except Banks, Co-operative Societies and Companies which already are bound to maintain regular accounts, should be compelled to keep separate accounts, of principal and interest, and to supply a copy to every debtor at intervals of six months.

That failure to comply with the first part of the resolution should be punished by forfeiture of the whole or a portion of the interest and by refusal of costs.

That all money-lenders should be bound under penalty to give written receipt for every payment.

That it should be made a crime to record in the accounts as principal a sum larger than that actually advanced, whether on the ground of charges for expenses or inquiries or nazrana or fines or renewals.”

Chairman: As regards amendments to this resolution there are two. They suggest that pass-books should be made obligatory instead of simply supplying a copy of account. It is very desirable that every money-lender, whether big or small, should supply a copy of account every six months to his debtor and that he should start a pass-book.

Maulvi Fasihi-uddin: There can be no objection to this.

Chairman: Mr. Anand Sarup, Mr. Sah and Dr. Dube have all put in amendments to this effect.

Mr. Sah: I agree with Rai Sahib Lala Anand Sarup's amendment. I hope that Dr. Dube will also agree with that amendment.

Chairman: The amendment of Rai Sahib Lala Anand Sarup runs:—

“At the end of paragraph 1, for “and to supply six months” substitute “and pass-books be used, one by the creditor and the other by the debtor, all transactions being entered therein and duly signed both by the creditor and the debtor.”

This is very rigid. Personally I never sign my pass-book.

Mr. Sah: You may never sign your pass-book but you give a verification of account at the end of every half year. You send a cheque before receiving payment whereas in the case of an illiterate borrower he never signs a cheque. In the case of a promissory note he puts his thumb-impression. In the case of a *dastgardan* loan he even does not do that. Further the debtor may not find the creditor at the spot and he may have to travel many miles to find him and that may impede his transaction. As a matter of fact he will not go 5 or 6 miles to give an account. If at all an account is to be kept it must be in the form of a pass-book, otherwise

there would be a lot of objections and there might be a lot of litigation and every debtor could go to court and say that the creditor did not supply him with an account although as a matter of fact he did receive.

Chairman: Why not post it by registered letter.

Mr. Sah: I would oppose sending by registered letter on the ground of expense. In the case of pass-book there will not be any expense. As a matter of fact in my actual experience I have found that even in the case of bank transaction people go to the court and make statements that they did not receive any pass-book although later it was found that they did sign the peon book. It is simply in order to avoid future disputes that this method has been proposed.

Babu Madhusudan Dayal: I oppose the amendments proposed by Rai Sahib Lala Anand Sarup and Mr. Sah.

Dr. Dube: May I know what the gentleman is opposing the amendment or the resolution.

Babu Madhusudan Dayal: I am opposing the amendment. I know so much procedure. I oppose the amendments of Rai Sahib Lala Anand Sarup and Mr. M. L. Sah. It will be very difficult for village money-lenders to supply pass-books. They themselves are not literate and the debtor is also illiterate and moreover there will be great difficulty owing to signature. If the debtor puts in false signature then litigation will increase rather than decrease and the expense of litigation will go up. They will have to spend money on getting the opinion of the writing expert. It will be very difficult for the village money-lenders. They themselves keep only *bahakhatas* and not daily account books. In the *khata*s they put down the name and the amount of money advanced that so much money is advanced to Madhusudan Dayal. They have got no daily account books. In their *khata* alone they will debit as much money as I will borrow and they go on crediting it in that *panna* the amount I will pay. Few money-lenders in towns keep regular accounts and it will be very difficult to supply pass-books under compulsion to the debtor. I will propose an amendment later when these amendments are finished that instead of six months substitute 12 months.

Chairman: I do not want any discussion at present on this point. We will come to that later.

Lala Anand Sarup: I do not think there is any fear of fraud because one copy of the pass-book signed by the debtor will be with the creditor.

Babu Madhusudan Dayal: Then my friend means to say that there will be two pass-books.

Lala Anand Sarup: Certainly so, one with the creditor and the other with the debtor. The pass-book need not be printed and costly. It can be made of ordinary paper. One may be kept with the creditor and one by the debtor, both signed by both parties.

Chairman: Is there anybody who wants to oppose the amendment?

Mr. Habib-ullah: This discussion is absolutely unnecessary because the rule does provide that all money-lenders, except Banks, Co-operative Societies and Companies, which are bound to maintain regular accounts, are bound to keep separate accounts of principal and interest and to supply a copy to every debtor at intervals of six months. Now we are discussing in what form this rule should be complied with. It is suggested that the account should be kept in the form of a pass-book, but account has to be prepared and a copy will have to be supplied. I do not say anything about six months because that goes against the very resolution that we have passed that account should be yearly and not six months.

Dr. Mukerjee: I am moving an amendment which will perhaps satisfy the committee. It is this, "That all money-lenders should supply a separate account to every debtor at intervals of six months. The form of the pass-book may preferably be used" and so on. This will meet the objection that the sending to and fro of pass-books amongst an illiterate population will not always be possible. At the same time the form of the pass-book will be a guarantee against dishonesty and fraud where it can be used; otherwise a copy of accounts should be supplied to every debtor at intervals of six months. I think that would satisfy the purpose of this resolution. The point is that the pass-book should be used where the population is literate and intelligent.

Mr. Rudra: I think that Dr. Mukerjee's proposal is perfectly all right. I think Mr. Habib-ullah made it clear what the real need is. It is that the debtor should have a copy of the account. The controversy now is in what form it is to be given to the debtor. As a matter of fact we are all under the impression that registered letters will be required to be sent every six months and a few annas will be required to be spent by the creditor and perhaps he may not get anything from the debtor. I think the whole idea is that both the parties in some way or other, the debtor and the creditor, should have an actual copy of the accounts both of which tally, and for that purpose if Mr. Mukerjee's amendment is accepted that will be quite alright.

Chairman: Is it the amendment that the words "preferably in the form of a pass-book" be added at the end. Mr. Habib-ullah also wanted to move an amendment.

Mr. Habib-ullah: I would like to move an amendment. I hope that everybody will accept my amendment and it is this that the words "should supply a copy to every debtor at such intervals and in such form as may be prescribed by law" be substituted.

Chairman: I cannot accept that amendment as it stands because it introduces another question about intervals. It is quite a different question and it is not possible to deal with both the questions together. I think I shall have to split them up.

Mr. Habib-ullah: We have already decided about intervals when we said yearly accounts.

Chairman: You have a man borrowing for three months. He may borrow for a harvest. The interest is made up only with yearly rests. The running account may go on and obviously running account goes on throughout the year.

Mr. Habib-ullah: Even in the form of cash credit or fresh borrowings?

Chairman: I cannot say that. There may be fresh borrowings. I am quite ready to put to the Committee as to whether the interest on the amount of loan should be for six months or for 12 months.

Babu Madhusudan Dayal: The view of the committee perhaps might be taken.

Chairman: I am quite ready, but I want to keep it separate. We have got two amendments to this resolution. The original resolution merely says "That all money-lenders except Banks, Co-operative Societies and Companies which already are bound to maintain regular accounts, should be compelled to keep separate accounts, of principal and interest, and to supply a copy to every debtor at intervals of six months." This leaves open to the creditor to decide in what form this copy should be supplied. Then there is Mr. Anand Sarup's amendment which is definite that a pass-book should be used, one to be kept by the creditor and the other by the debtor, all transactions to be entered therein and duly signed both by creditor and the debtor. Dr. Mukerjee on the other hand has proposed a less rigid amendment that after the words "a copy to every debtor at intervals of six months" the words "preferably in the form of a pass book" be added, leaving it open in certain cases to dispense with the pass-book where it is not preferred. I will first put Dr. Mukerjee's amendment which is that the resolution should stand with the addition of the words "preferably in the form of a pass-book".

(The amendment was put and carried.)

Chairman: I think it would be desirable in deference to Mr. Madhusudan Dayal's wishes to take the view of the committee whether account should be given every six months or every 12 months.

Babu Madhusudan Dayal: Should I explain with your permission. I propose 12 months because when interest will be charged annually it will be very difficult for the money-lender to compile account every six months so I propose 12 months instead of six months.

Maulvi Muhammad Obaidur-Rahman Khan: What will be the difficulty?

Babu Madhusudan Dayal: The difficulty will be in sending account every six months. Debtors are not at the creditor's door. They are throughout the district, in tahsils far away. He has not got so many servants. His income will be lessened by your restricting the rate of interest and he will not be able to employ so many servants. So if a copy of account is supplied every six months the recurring charges will increase.

Lala Anand Sarup: I support the amendment of Babu Madhusudan Dayal. It will

increase the work of the money-lenders to a great extent and money-lenders generally prepare their accounts on *Dasehra*. They close their account on *Dasehra*. They prepare their accounts only once a year and so I think it will be better if they send their accounts to their debtors annually.

Maulvi Fasih-ud-din: I do not think that the scheme suggested by my friend is feasible, for this reason that the majority of loans that are taken, go from one crop to another, that is they are for six months. so if we extend the period from six months to twelve months, it will result in complications and those people who want to know their accounts after six months when the crop is ripe either *khari* or *rabi*, will not be in a position to get the account. I think this was the principal object for which this period of six months was put in. I do not think there will be any difficulty on the part of the creditor to supply six monthly accounts. Besides so far as I remember in the Punjab Act which has been recently passed, the period is six months and not one year. And it is for this very reason that I think the period of six months has been put in.

Dr. Mukerjee: I am in entire agreement with the point of view which has been just now expressed. Generally most of our borrowers who are small cultivators take short-term loans. Intensive inquiries in districts show this. Here is the result of one such enquiry undertaken. Loans are repayable in about eight months from the date of borrowing—October to May and 25 per cent interest is charged. In the case of short-term loans accounts are closed in the month of *Aghan*, i.e., December for *khari* and in *Baisakh* for *rabi*. Interest is charged generally from the date of borrowing to the date of repayment or the date of closing account whichever falls first. If any amount remains unpaid, the full rate of interest is charged on the amount of balance for the next six months. Obviously for a short term loan, and it is with this that the majority of our small tenants and proprietors are concerned, accounts must be kept at intervals of six or eight months. Moreover there is a certain check towards extravagance. If the account goes to and fro every six or eight months, it will show the burden of debt to the debtor, who may find at the end of a year too heavy for him to risk further borrowing.

Mr. Habib-ullah: Sir, there is no limit for the repayment of any debt. It may be paid after a month or fifteen days. In that case I think monthly accounts would be more convenient than yearly accounts. There is no question of harvests. Suppose if I borrow money today and if I get money tomorrow I will go and pay it. In that case why not ask every month. When we have settled as a matter of principle that the interest will be on yearly counts, I think we must at the same time look at the practical work which will devolve on the banker. After all we are not here to make every banker extinct and to put that difficulty in his way. Treat him as a fair dealer. In banks we have got six-monthly accounts because they have six-monthly counts.

Maulvi Muhammad Obaidur-Rahman Khan: Money-lenders should also have six-monthly counts.

Mr. Habib-ullah: You have raised the time of payment up to seven years and now you want that the account should be supplied every six months. We must take the practical view, and as such I think that the interval should be fixed at a year. It is said that in the Punjab and other legislations the time fixed is six months and I am sure that if you will look into those acts you will perhaps find that the counts there will be every six months and not yearly counts and therefore they have put six months. I do not think the tenants will be injured in any way, if the interval is fixed at 12 months.

Mr. Rudra: I think this amendment is perfectly right. Whenever a transaction takes place between the debtor and the creditor, an entry will be made in the pass book. The question arises when arrears are to be made up in the pass book. That is the whole idea. The pass book will be made up every time a transaction takes place. The pass book is made up every six months. That is done everywhere. There will be no difficulty with regard to bankers for the obvious reason that the banker will be sure to enter all these transactions. It is not a question of issuing new pass books showing arrears for a period of six months. I favour the system of six months.

Mr. Brijnandan Lal: I move for closure, Sir.

Babu Madhusudan Dayal: My friend has stated every six months. He is much after it. But the whole thing is that the pass book will be with the debtor and the money-lender will compel him to bring the pass book when required. It will be the debtor's duty to bring the pass book to the creditor to be made up. Would the money-lender have to make up the pass book or will it be the duty of the creditor to send for the debtor to fill the entries in the pass book. My friend has referred to the running account. These accounts are with village bankers. They advance money on *tamassukh*, i.e., on stamped paper. There will be great difficulty for those who do business on stamped paper.

Chairman: That is a new point.

(*The amendment was put and lost.*)

Chairman: There is another amendment in the name of Mr. Sah that to the last paragraph add "the onus of proving that the sum entered is larger than actually advanced should lie on the debtor." I think that there is some misunderstanding here. The resolution says that it should be made a crime. The burden of proving a crime is always on the Crown or the complainant who represents the Crown. So I do not think that there is anything in it.

Mr. Sah: I only proposed it in order to make the position clear.

Chairman: The burden of proof will lie on the creditor. It cannot be on the debtor.

Mr. Sah: Then I withdraw my amendment.

Chairman: Then there is another amendment of Mr. Sah. It is this. Add "This provision should apply only to a running account, and to those transactions where the debt is not borrowed on pro-notes or other instruments of debts"

Mr. Sah: In moving this amendment I beg to point out that this provision for supply

of account is necessary only in the case of running account that is carried on from year to year. In the case of a debt which is borrowed on a pro-note or on a *tumassukh*, it is not necessary at all because as soon as the debt is paid, the pro-note is returned so it is only in the case of running accounts where the account has been going on for several years that there is a dispute and such a provision necessary.

Babu Madhusudan Dayal: I second the amendment.

Maulvi Fasih-ud-din: I oppose the amendment. Absolutely no reason is given why a running account should be made subject to these rules.

Dr. Dubey: I think the regulation of accounts is the most important thing that is required to be done. It is perfectly necessary with regard to all transactions whether on pro-notes or stamped paper or in the form of running account, that the debtor should have knowledge at the end of every six months as to how he stands in relation to his creditor, so favour the original resolution and oppose the amendment.

Mr. Sah: My learned friend Maulvi Fasih-ud-din was pleased to remark that no reason was given for this amendment. As a matter of fact so far as the pro-note is concerned, it is a single transaction. As soon as the amount is paid in instalments or in a lump sum, the pro-note is returned and there is no necessity to have a further account.

(The amendment was put and lost.)

Chairman: There is an amendment in the name of Raja Sir Moti Chand to the effect that no penalty under the resolution should apply to illiterate villagers who advance their small savings to their neighbours. I do not know whether anybody will move the amendment.

Mr. Habib-ullah: Unless he has authorized anybody to move it, cannot be moved.

Chairman: If that is the sense of the Committee, I do not want that it should be taken up. Those who are in favour of the resolution as amended by the addition of the words "preferably in the form of a pass book" in the first paragraph will raise their hands.

Mr. Sah: In opposing this resolution I want to point out that this question was discussed in the Banking Inquiry Committee. His Excellency the Governor sent us a note in which he asked us to examine this question but he made it clear that in the Punjab things were quite different. The Banking Inquiry Committee went into this question and this is what it said—

• "We have received. . . ."

A voice: What page?

Mr. Sah: Page 289 of the report, Volume I.

"We have received numerous complaints that money-lenders do not keep their accounts regularly or honestly, and that they refuse to explain them to their clients. The remedy usually suggested is legislation on the lines of the Punjab Regulation of Accounts Act, which prescribes forms in which accounts are to be kept and requires money-lenders to send a copy of these accounts twice a year to their clients. We doubt whether such practices are

widespread in this province. Indeed, there is evidence to show that in some districts it is the money-lender's regular custom to explain his account to every client on certain fixed days. There is also evidence which shows that errors in the account are not always in favour of the creditor. Again, the principal object of rendering a periodical account is to enable the recipient to compare that account with his own. But in the prevailing state of illiteracy few debtors keep any account; and obviously, unless he does so, the creditor can still manipulate his account since though the debtor may suspect manipulation he will not be able to prove it. Further though the law may forbid the levying of a fee for preparing such an account we feel little doubt that the money-lender in one way or another will pass the cost of preparation on to his debtor, either by raising the price of credit, or by inventing some new customary fee not directly connected with the preparation of the account itself. Lastly, unless the forms prescribed by the Local Government are of the simplest possible kind, the money-lender himself may be unable to fill them up satisfactorily. For though he is generally literate, he is very often insufficiently educated to understand the complicated form."

As a matter of fact there is no necessity for a measure like this. It is accepted in principle that there are very few malpractices which are very generally prevalent in the province. The only way to secure that the accounts should be well kept is that the people should be generally educated.

Dr. Mukerjee: The Punjab system of accounting which has been prescribed by law is much more elaborate. That is what we are recommending in this resolution. Mr. Sah has read out a paragraph from the Banking Inquiry Committee's report. The next paragraph, however, says—

"These are the principal proposals which we have received for regulating and restricting the money-lender's operations. Whilst approving of none of them, except on an experimental basis, we have nothing concrete to put in their place."

So that the Banking Inquiry Committee did not want to pass any opinion regarding this. They found that the money-lender himself required education. If both the creditor and the debtor are illiterate, the necessity for supplying copies of accounts is still greater.

Mr. Sah: You should read the next sentence of this paragraph also.

Dr. Dubey: Sir, I think it is admitted that copies of account should be supplied. As a matter of fact we find that most of the creditors at present do not supply accounts. They refuse to do so. There is no doubt about that. There are numerous passages in the report at different places which speak of malpractices that are existing. Our object is to convert money-lenders into some sort of bankers and if they are trained in that fashion a stage may come when they might be fitted into the economic structure of the community. If they are not trained in this way by being asked to

keep regular accounts, then certainly there is no use of passing any measure for the relief of the agriculturist. Ask any officer who has got some experience of trying cases of such running transactions and he will confirm the view that in many cases there are lots of *garbar* in the account. It is very difficult to separate the tail from the head. Therefore I say that this clause is absolutely essential and it should be retained in the form in which it is put in the resolution.

Khan Bahadur Maulvi Fasih-ud-din: The Banking Inquiry Committee report, extracts from which have been read by my friend, was written long before the slump through which we are now passing and the agrarian conditions have been changed thoroughly since then. So the report at least in this particular respect has become out of date now. Now that we are passing through a very great agrarian crisis, I think it is necessary to put in a provision like this and we need not consider the recommendations of the Banking Inquiry Committee which might have been suitable in those days but which have become out of date now.

(The resolution was put and carried.)

RESOLUTION V.

Mr. Wajahat Hussain: Resolution no. V runs as follows:—

"That all decrees against agricultural produce, groves (outside Municipal or Notified areas) or agricultural land, if assessed to not more than Rs. 500 land revenue, will be transferred to the Collector for execution."

That no decree against agricultural produce may be executed at more than four harvests.

It was agreed that the rules which may be made under this proposal should empower the Collector to give usufructuary mortgage of the judgment-debtor's holding, provided that the landholder consents to the mortgage."

Chairman: There is an amendment to this resolution in the name of Mr. Anand Sarup.

Lala Anand Sarup: Before I move my amendment, I would like to know what is meant by the second paragraph of the resolution that no decree against agricultural produce may be executed at more than four harvests. Is it meant that the decree-holder will have to execute his decree for every consequent harvest?

Chairman: No, I do not think it means four consecutive harvests. I was responsible for the drafting of this. What I meant was that the debtor should not be harrassed on more than four occasions. When I drafted that I meant exactly what it says. The decree-holder can choose four harvests.

Lala Anand Sarup: What should be done if any portion of the decree remained uncollected. Whether it is recoverable by law if he has any other property.

Chairman: If he has any other property, it is recoverable. If he has not got any other property it is not recoverable.

Mr. Habib ullah: No decree means any rent decree?

Mr. A. A. Waugh: Revenue court decrees are excluded from the scope of this resolution but not civil court decrees.

Mr. Rudra: I take four harvests to mean four consequent harvests.

Chairman: Not necessarily. There are two amendments, one by Mr. Anand Sarup that in place of "four harvests" substitute "six harvests".

Lala Anand Sarup: If we put down at the end of the clause in brackets "(not necessarily consecutive)" it would be better.

Chairman: Yes. We might add in brackets "(not necessarily consecutive)".

Chairman: There are two amendments put in by Mr. Anand Sarup and another by Dr. Dubey.

Dr. Dubey: I withdraw it. But I wanted to move that the word "groves" be deleted from paragraph 1, line 1 of the resolution.

Lala Anand Sarup: I also withdraw as you have added the words "not necessarily consecutive".

Kai Krishnapal Singh: I want to move an amendment. We should say four alternative harvests instead of consecutive harvests.

Chairman: It is not consecutive at all. This is a new thing and I do not know why we should go into a small question like this. It was discussed in the sub-committee.

Lala Anand Sarup: My point is that the crops are sold when they are ready, so the purchasers calculate the price of the produce with his eyes open. There is no justification that he should be given any relief.

Chairman: This is really not a question of relief. So far as I know my point was that the sub-committee did not desire that the *amin* from the civil court should attach the crop and that the Collector should execute the decree. That is all. There is no special relief to the debtor.

Lala Anand Sarup: The decree against the agricultural produce can be executed at the first harvest. But what about groves. Supposing he is not a permanent grove-dealer and one year he takes a grove and the next year he does not take it. Then how the decree money will be realised from him?

Chairman: If a civil court has passed a decree then instead of the civil court executing itself, it will send it to the Collector. The Collector will be in a position to adjust it.

Lala Anand Sarup: Here it is mentioned that no decree against agricultural produce may be executed at more than four harvests. How it can be realised from groves.

Chairman: Well, that is the point. You will see that the first paragraph refers to agricultural produce, groves or agricultural land. The provision about four harvests applies only to agricultural produce.

Lala Anand Sarup: How it will be realised from the groves?

Chairman: As it is now, at a number of harvests. The Collector will realise it but apparently in the proposals there is no suggestion that execution against groves should be limited to four harvests.

Babu Madhusudan Dayal: I want to make a suggestion that as it will take a long time for the execution of a decree for transfer from the civil court to the revenue court, the period of attachment should be extended by one month before the harvest is collected. That period must be extended in the Civil Procedure Code. If we are to execute our decree we will have to apply to the civil court. From the civil court it will go to the revenue court and the *amin* will execute the decree. The executor will then be informed that now the decree is being executed. All this will take time, so the period in the Civil Procedure Code for attaching the harvest must be raised by one month.

Chairman: What is the time at present?

Babu Madhusudan Dayal: One month. That period must be made one month earlier. My reason is that when the attachment is direct by the civil court the period of one month is sufficient. But when the decree is to be transferred to the revenue court for execution, then the time must be extended by one month in the Civil Procedure Code.

Mr. Brijnandan Lal: What time?

Babu Madhusudan Dayal: There is a time limit in the Civil Procedure Code, but I do not remember. Perhaps it is one month or two months before the harvest is collected.

Chairman: I will take a note of this. But I do not think that we can put it down here.

Mr. Wajahat Husain: Mr. Madhusudan Dayal contends that you cannot apply for the attachment of a harvest rather of a crop except within about a month of its maturity. But there is no restriction to make an application four months or six months before. The provision says that attachment can only be made one month before the harvest.

Mr. Brijnandan Lal: Is there any such provision in the Civil Procedure Code?

Mr. Mogha: The provision is against attachment and not application. You can make an application 4 or 6 months before or at any time.

Chairman: Has Mr. Anand Sarup and Mr. Dubey withdrawn their amendments?

Dr. Dubey: Yes. But in this resolution we have the words (outside municipal or notified areas). If the House permits we might add "town areas" also. I think that might have been in the minds of the original framers of this resolution. When we have got municipal and notified areas, we might as well give that benefit to town areas.

Maulvi Muhammad Obaid-ur-Rahman Khan: It is practically a rural area.

Dr. Dubey: I do not want to insist on that point. It is only a suggestion.

Mr. Sah: May I request that the last paragraph may be added to this resolution that it was agreed that the rules which may be

made under this proposal should empower the Collector, etc. This should go together. Then the votes on these paragraphs of the resolution should be taken separately because a member may support one paragraph and oppose another.

Chairman: I do not see any objection to this. Do you want to split up the resolution into 3 paragraphs.

Mr. Sah: Yes.

(The first paragraph of the resolution was put and carried unanimously.)

Chairman: I now put the second paragraph of the resolution.—"That no decree against agricultural produce may be executed at more than four harvests." (Not necessarily consecutive)

A voice: Add the words "Civil Court" before the word "decree".

(The second paragraph of the resolution, as amended, was put and carried.)

(The third part of the resolution was put and carried.)

RESOLUTION VI.

Chairman: We now come to resolution no. VI.—"That no agriculturist should be arrested or imprisoned in execution of a decree of money." Mr. Anand Sarup has suggested instead of this resolution the following should be substituted:—

"The court may issue warrants for the arrest of the debtors in extreme cases." Mr. Hidayat Husain opposes the resolution altogether.

Lala Anand Sarup: My object in moving this amendment is that if we do not allow courts to issue warrants in extreme cases, the debtor would have no fear in his mind to pay up his debt. It will be very difficult for the creditors to realise their money. When a zamindar, whether big or small, can be arrested and sent to jail for the arrears of land revenue, then why the agriculturist should not be sent to jail in extreme cases for the non-payment of the decretal money. This should be left to the discretion of the courts and we should not tie their hands.

Babu Madhusudhan Dayal: I second it, Sir.

Mr. Habib-ullah: I oppose it.

Thakur Muneshwar Bakhsh Singh: I do not know whether it relates to civil court decrees only. I am opposed to the provision of arrests altogether and hence I oppose the amendment. My point is that if an agriculturist is exempted from being arrested he should be exempted from all arrests whether for rent or revenue or any other loan. There is no reason why a distinction should be made. I am for the abolition of all sorts of arrests, but we cannot go into the question that no arrests should be made as the scope of the committee is very limited. So I restrict the application of the resolution to the decrees in respect of loans only.

Hafiz Hidayat Husain: I am opposed to this resolution altogether.

Chairman: We are dealing with the amendment. We will consider the resolution afterwards.

Babu Awadh Bihari Lal: I am speaking on the amendment. The idea is that if a man is capable to pay and is not paying, this imprisonment is meant to compel him to pay when he possibly can. But when he is prepared to have his harvest attached and sold and when his household property and his holding is being taken and when he has no other means to pay, then certainly he should be exempted from imprisonment. Imprisonment should only come when he is reluctant and has means to pay. I think this is a very sound proposition.

Rao Krishnapal Singh: I oppose the motion. My reason is that this provision has been chiefly responsible for turning certain respectable people from agriculturists into dacoits. If you take a census of the dacoits of Agra more people have been converted into dacoits due to this provision because they have suffered humiliation so much. In Agra I know of a man whose father died in prison. He was sent to prison in the execution of a civil court decree. My chief objection is that they will be harrassed unnecessarily. I know a number of instances where a good deal of bitterness prevails between the money-lender and the agriculturist due to this provision and I do not think that it should be allowed to stand. That is my main reason. The other reason is that if we retain this provision in one case it would be difficult to abolish it in another. Since we are dealing with this provision, let us make a beginning here. It is very humiliating for a judgment-debtor to be sent to jail.

Dr. Mukerjee: Sir, I am opposed to this. My chief reason is that the failure to repay loans on the part of the agriculturist is often due not to deliberate dishonesty, but to the succession of bad harvests or devastation by locusts and various other natural calamities over which he has no control. Imprisonment ought to follow moral turpitude rather than an economic failure. Even in extreme cases I would not permit anybody, whether the court or anybody else, to arrest or imprison a defaulting debtor.

Maulvi Fasih-ud-din: I am also very strongly opposed to this amendment and on this occasion I will relate my personal experience. There was a Brahman tenant in my village in the Shahjahanpur district. He was imprisoned for failure to pay up the decretal amount and that was about 8 months ago and then when he came out he did not go out of his house and about a month ago he died. He was subjected to a great shame. We are now trying to get the provision about the arrest of the zamindars scored out from the Revenue Act and if we were to support this amendment we will have no face to go to the Government and say that these arrests result in disgrace and ignominy of the defaulting zamindars and therefore it should be taken out from law. As Rai Sahib has just remarked let us have this guarantee and then we should try to get this provision of arrest taken out altogether. I may also quote a very heart-rending instance of a friend of mine. He was getting Rs. 500 a month in a state. He was imprisoned by chance at Delhi and he committed suicide with a revolver. There was a slip found in his pocket that he felt so much ashamed that he would not live in the world

and for that reason he was committing suicide. My experience is that in nine cases out of ten at least the tenant is unable to pay the loan when he is arrested and in that case I think it is but right and fair that he should be saved from this ignominy.

Dr. Dubey: I want to place a few observations before the committee. All competent authorities have agreed that the present law allows the money-lender to take from the debtor more than what he actually could under the old panchayat system. This is a very bitter complaint that the law is very rigidly applied and that results in creating a discontent in this country. From my personal experience I can say that in quite a large number of cases the process of arrest is resorted to for the sake of humiliating a man rather than for the sake of getting the last pound of flesh out of him.

Mr. Habib-ullah: Not in all cases.

Dr. Dubey: That is a matter of opinion. That is my point of view. There are two other considerations which I want to place before the committee, namely, that you are prohibiting arrests in the case of civil court decrees. I would just quote two instances of a zamindar. During the last winter season his harvest was totally burnt and again this time very great damage was done to his harvest and the man was put in the lock-up by the revenue authorities. If we are going to stop these arrests certainly the revenue authorities should also consider the question of abolishing the process of arrest equally as we are doing it in the case of civil court decrees. The other consideration is that in advanced countries definite cases of dishonesty are dealt with by the State. I remember when I was in England there was one Hatry case. There was no distinct personality who could file a suit against him, but the State itself took the initiative. There is some provision in the British law according to which certain cases of dishonesty can be definitely dealt with by the State. With this consideration I submit that this process of arrest should be abolished wherever it is in the case of the execution of a decree whether it is a civil court decree or a revenue court decree.

Mr. Habib-ullah: I think we are only discussing civil court decrees.

Chairman: Yes.

Lala Anand Sarup: My object is that the courts should be left to use their discretion in the matter and their hands should not be tied down that no man should be imprisoned in execution of a decree. It should be left to the discretion of the courts. If they find that any man who has got money is not paying the decretal money, he should be sent to prison.

(The amendment to resolution no. V was put and lost.)

Chairman: Mr. Sah wants to know whether the same provision regarding arrests should be applied to rent court decrees.

Mr. Habib-ullah: That is outside our scope.

Chairman: What I want to know whether the committee wishes to express an opinion on the question one way or the other, on rent

court decrees. If they do not wish to express an opinion then I will not put it. The sub-committee did not wish to express an opinion on rent court decrees.

(The motion was put and lost.)

Hafiz Hidayat Husain: I oppose this resolution on the ground strongly that in our anxiety to serve that tenantry we should not make them immune from arrest always. This curtailment of personal liberty is perhaps not advisable in certain cases because it puts a break on the borrowing tendency of a tenant and sometimes it cannot be said that the loan taken by a tenant is not for any productive purposes, but sometimes it will be for unproductive purposes and in that case I think that the tenant should not remain immune from arrest in execution of a decree, particularly when we find that the Civil Procedure Code already confers powers on the courts to release a judgment-debtor on certain conditions. If these conditions are fulfilled the man will not be allowed to go to jail. But I have my complaint principally on the ground that after all sometimes the tenant needs money and if the flow of capital is impeded by the knowledge that the man to whom money is given is immune from arrest, my submission is that it will be to the disadvantage of the tenant himself sometimes and he will not be able to get any money from the money-lender. Moreover after all whatever may be said against the money-lender, he is not such a curse in the country as he is supposed to be. Sometimes he serves a very good purpose. So my submission is that firstly in order not to check the flow of capital, secondly in order to put a break on the borrowing tendency of the tenant and thirdly in order not to effect the discretion of the courts, we should not as a rule make the tenant immune from arrest in execution of a decree.

Mr. Sah: I am afraid my sympathies are with the opposition and the main ground is that although I wish that arrest for the recovery of money should be abolished in all cases, we should not make a man immune from arrest only in one case. I would have supported the resolution in case we would have abolished arrests altogether. There are certain cases in which he can be arrested and there is no reason why a money-lender, who performs such a good function for the rural economy, should not be allowed to recover his money by arrest, when the co-operative societies are allowed to do it. When rents can be recovered and even the debts of the co-operative societies can be recovered by means of arrest, there is no reason why we should exempt debts due to money-lenders. The acceptance of this Resolution will strike at the root of the credit system. Money-lenders cannot be dispensed with at the time.

Dr. Dubey: I am supporting the main proposition. I have to oppose the other motion simply on the ground that at present many money-lenders give really more money than what actually should be given. Many creditors at the present moment let out money to the debtors on the understanding that in the last resort if they are in a position to arrest the man they will be able to get back their money. That will put a curb on their extravagant credits. I have known many cases in which certain loans have been granted by certain parties

and the creditors have advanced these loans on a mortgage on the distinct understanding that their debts will be realised only out of the produce of these lands or the sale of these lands at the time of the execution of decrees. They are not satisfied with this now. When the land was purchased prices were high and now that prices have fallen, creditors are not satisfied with the land. In the circumstances it is not fair that the borrower should be put to arrest. There is another reason. Sometimes it so happens that the grand father borrowed money and the grandson is unnecessarily harrassed although the man might be actually very honest. In these circumstances it is very necessary that the borrower should be protected and there should not be any loophole the creditor to give him more money I would not put him into prison.

Mr. Habib-ullah: This involves a very great question of principle. We are here in a spirit to do anything and everything in favour of the tenant as against the money-lender. This is not a true spirit. There is no section of any community which is exempted from the arrest of the civil court as a defaulter. Well, we say that we are going to exempt one class of people the agriculturist from this operation of the law. I think taking the practical side of the world one would find that a banker only puts an agriculturist into prison when he has no other recourse left for the realisation of his money and even then when he is putting him into prison he has got to pay all the jail expenses—poor fellow while the man is in jail and in the hope that that money will be recovered from him because he has got some other means to pay. He has got to invest money in order to realise from the debtor. He has to pay the cost of arrest and the diet money while in jail according to the debtor's circumstances. The sense of the members of the committee have been absolutely pro-tenant and anti-banker.....

A voice: No.

Mr. Habib-ullah: It is very difficult for any conscientious man to agree that as a class the agriculturist should be exempted from this punishment. The banker spends his money for the realisation of his debt from the defaulter because he knows that the only recourse left for the realisation of his money is to put the debtor in jail. But after all this is not a good advertisement for any banker to send his debtor to jail. It brings a bad name to him. I think this is a provision which requires very great consideration. We must consider it in a most broadminded spirit.

Dr. Mukerjee: It is against all modern canons of jurisprudence to infringe on personal liberty due to economic failure. The principle, which is laid down by Bentham, is that when there is an economic failure there may be no distraint of property but there should be no distraint of person. The distinction between person and property is fundamental. By all means punish fraud or dishonesty, but if the failure to pay the debt is due to circumstances over which a man has no control, if it is due to no moral turpitude, by no means wield the extreme weapon of humili-

liation by sending the debtor to the jail. Besides the argument which has been put forward by Dr. Dubey is very important. If the creditor can use this extreme penalty there is an encouragement of the tendency of extravagant lending. We must protect both the borrower as well as the creditor against this vicious system of extravagant lending and borrowing. Besides if you send a debtor to jail the ignominy that is writ large on his face at once will kill all economic initiative and the money-lender will kill the goose which lays the golden eggs.

Chairman: I will now put resolution no. VI which runs as follows:—

"That no agriculturist should be arrested or imprisoned in execution of a decree of money."

(The resolution was put and carried.)

RESOLUTION VII.

Mr. Wajahat Husain: The resolution runs as follows:—

"That after the passing of the Act, the principal of a loan recoverable by a single creditor from an agriculturist will be limited as follows:—

Proprietor	Ten times the revenue assessed.
Under-proprietor, inferior proprietor, permanent tenure-holder or fixed-rate tenant.	Ten times the recorded rent.
Exproprietary or occupancy tenant.	Five times the recorded rent.
Any other tenant or sub-tenant.	Three times the recorded rent.

The sub-committee decided that the proposal should apply only to loans taken after the commencement of the Act."

Babu Madhusudan Dayal: I do not understand what the words 'a single creditor' mean. Is it that if a debtor has many creditors then only one single creditor can recover money ten times the revenue assessed from the proprietor or all the collective creditors? If I have got a revenue of Rs. 1,000 and I have got ten creditors then they can recover one lakh from me?

Chairman: If you have a revenue of Rs. 1,000, you can borrow Rs. 10,000 from one creditor. If you want to ruin yourself then you can go to other creditors; we cannot help you. There is an amendment in the name of Rai Bahadur Lala Anand Sarup which runs as follows:—

Add "This resolution should apply to those tenants only whose *haisiyat* of credit is not more than Rs. 1,000."

Lala Anand Sarup: I withdraw this amendment and will discuss it later when the word 'agriculturist' will be defined.

(The amendment was withdrawn.)

Chairman: There is an amendment in the name of Dr. Dubey which runs as follows:—

Add "This restriction should not apply to cultivators of compact farms of 50 acres, or more, if loans are taken for agricultural improvements or to those borrowers who fail to inform their creditors of the true state of their affairs at the time of borrowing."

Dr. Dubey: With your permission, Sir, I wish to withdraw the second part. I am proposing only the first part simply for the reason that the agriculturist may not be put to any difficulty. If he wants money to effect permanent improvements he should get it. There should be no prohibition in the rules in the case of compact farms to borrow the necessary money for the purpose of effecting permanent improvements. Therefore I beg to commend this amendment to the acceptance of the committee.

Chairman: I do not understand your amendment. Do you mean that where a man has a compact farm of 50 acres, no limit should be placed on his credit at all.

Dr. Dubey: Yes, Sir.

Chairman: Does anyone second this amendment? The amendment is not seconded and therefore it falls to the ground.

Babu Madhusudan Dayal: With your permission, Sir, I want to delete the words 'a single creditor'. The sub-committee meant that a debtor should not take more than ten times. Why should a creditor be under the impression that he can take more than that, when the sub-committee meant that the proprietor can only take ten times his revenue? It would therefore be better to delete the words 'a single creditor'. Suppose an agriculturist borrows Rs. 500 from a creditor in Lucknow and then he goes to some other creditor in Unao. Then how the Unao creditor will know that he has borrowed Rs. 500 from a Lucknow creditor. Does Government want to fix the credit of every agriculturist?

Chairman: You cannot fix it completely. He can go to half a dozen creditors.

Babu Madhusudan Dayal: The creditor might also be under a false impression as I was myself. For that purpose I wanted to delete those words. We must know actually whether a proprietor can take money ten times of his revenue. Then when an agriculturist comes to me for a loan, I will ask him you are wanting Rs. 1,000. Kindly tell me what is the revenue that you are paying. How much you are indebted to various people. That is my simple reason and nothing else. I think it will be much more in the interests of those people rather than in the interests of the creditors.

Chairman: The amendment is that the words 'a single creditor' be omitted. Does anyone second it?

Mr. Habib-ullah: I second it, Sir. I find that this section has been provided in order to make it clear that if any person is indebted to several creditors, no single creditor can realise from him more than this. But if you omit it, it will mean that you accept in principle the capacity of the agriculturist as against total creditors to be able to pay not more than ten times. If it is so, I think the omission of these words will improve matters.

Mr. Sah: I rise to oppose this amendment, Sir. My main reason is that it is impracticable. In the first place it will make it impossible for a bank or any recognised institution to know what are the debts of a person. Suppose he goes to a bank and

says that he pays an annual revenue of say Rs. 1,000. According to this he can borrow Rs. 10,000. And if he has already got a loan of Rs. 5,000, how will the bank know that he is indebted to that extent. Moreover how will the court determine his actual indebtedness, and how can a single creditor know that. It will do no good and will simply create confusion.

Maulvi Muhammad Obaid-ur-Rahman Khan: I must oppose the amendment which is now before the House, because if this amendment is passed then no one will get more than ten times of his revenue and it will be too hard. If I have got a revenue of say Rs. 10, I will get Rs. 100 only and if I require Rs. 200 for the improvement of agriculture or any other unavoidable reason, will it not be too hard for me to be unable to borrow more than Rs. 100. I think this amendment should be defeated or we must enhance ten times to some other suitable figure, otherwise it will be impracticable. I think no member will be able to give his vote in favour of the amendment so long as words "ten times" stand.

Dr. Mukerjee: This resolution is intended just to indicate not merely the borrowing capacity of the peasant, but it also tries to envisage the possibilities of profitable transactions on the part of money-lenders. If a peasant gets beyond ten times the revenue assessed, the possibility is that much of his debts will be absolutely irrecoverable. He will be more extravagant than he should be. That is why the resolution intends to limit at once the borrowing capacity of the peasant as well as the lending capacity of the money-lender in the interests of his business as well.

I would support the resolution.

Dr. Dubey: I am afraid I have to oppose the amendment. This point was thoroughly discussed by the committee when the limit was put at Rs. 500 in the case of a single creditor. Suppose a debtor borrows from a number of persons: a certain amount of money at Benares from a bank and another amount from another place and a third amount from a third place, then how are all these creditors to know as to where the man stands in relation to all of them. Consequently it is necessary to protect the creditors by laying down that no single individual will give more than that amount of money. As a matter of fact this will not be of very much practical value, but it would certainly avoid the insolvency of particular debtors and particular creditors. So it is very necessary that a limit should be put that he will not get more money than this. Consequently I stand for the original proposition and oppose the amendment.

Chairman: The amendment is that the words 'a single creditor' be omitted from the resolution.

(The amendment was put and lost.)

Babu Awadh Bihari Lal: Sir, it looks the resolution is very peculiarly worded. It says "That after the passing of the Act, the principal of a loan recoverable by a single creditor from an agriculturist will be limited as follows:—" It is not a question whether a

particular holding or zamindari property should be regarded as mortgaged for that amount. Even where the debt is unsecured he cannot recover from the proprietor more than ten times the revenue assessed. If it were a case that of a mortgage not more than ten times the revenue will be advanced and that would be recovered. That would be more fair and equitable. The resolution says "that after the passing of the Act, the principal of a loan recoverable from an agriculturist will be limited as follows." If it were a question where property can be mortgaged for more than ten times the revenue that would be a better thing. If the resolution were "that after the passing of the Act the principal of a loan recoverable from the property mortgaged will be so much or secured so much, it would have been better." I think this resolution is a very vague sort of thing and it will be very difficult in practice to execute it.

Mr. Habib-ullah: In the resolution as it stands I find the words 'under proprietor, inferior proprietor, etc., etc. and ten times the recorded rent.' Perhaps you are aware that under proprietors now pay nothing more than the Government revenue plus 10 per cent. malkana.

Chairman: Is the revenue included?

Mr. Habib-ullah: It is revenue plus 10 per cent.

Mr. Brijnandan Lal: To my mind the resolution is wholly impracticable. It will create two difficulties. The first would be that the zamindar or the tenant, as the case may be, will not be able to get any advance. I will take a concrete illustration. Take the case of an occupancy tenant who has got a holding of 10 bighas and whose rent is Rs. 10. He will not be able to get a loan of more than Rs. 50. In the case of intensive cultivation, as is the case in my district, the amount to be invested in holdings is very great. The result will be that tenants will not be able to get sufficient capital for agricultural purposes. We are putting the cart before the horse, we have not yet defined the word 'agriculturist' as yet and if a man has got other property, he will not be able to get more loan on the basis of that property. Suppose I own about 50 acres of land. In addition to that I have got other property, e.g., house property. If this resolution is allowed to stand as it is, I shall not be able to get more than ten times the revenue that I pay on the 50 acres that I own. The resolution is wholly impracticable and instead of doing any good to the tenants and zamindars it will harm them because it will limit their borrowing capacity to a very great extent.

Dr. Mukerjee: I consider this resolution the most important of those which have been sent up to this general committee by sub-committee no. 1, specially because the resolution no III has been vetoed. One most important method of dealing with the question of agricultural debt is to limit the borrowing capacity of the peasant. This resolution has sought to limit the borrowing capacity of different grades of tenants and zamindars in these provinces in a

most practical and effective manner. I shall give some concrete cases for the study of the proprietor's indebtedness. Let us take the district of Budaun which is one of the bad districts in these provinces where the expropriation of peasant proprietors has been very great. In 1865 the cultivated area of peasant proprietors was 36 per cent. In 1925 this came down to 21 per cent. of the total cultivated area of the district. Surely in a district like this you will find that the borrowing capacity of the peasant proprietor has been stretched to the utmost. Even in Budaun Mr. Waugh's calculation indicates that the land revenue per acre is Re. 1-8-0 to Rs. 2-4-0, that the debt per acre is Rs. 12. Even in such a bad district where there has been such a large expropriation, the credit given is not more than 8 times the revenue assessed for the proprietor. Where the debt is 8 times the revenue assessed the agrarian situation is full of perils. If it is beyond 8 times, it would mean that the money-lender has given out money most extravagantly. Money-lending business is most uneconomical causing ruin to both the money-lender and the peasant proprietor. We want to put a stop to this and that is why we want that the credit of the peasant proprietor should be limited to ten times the revenue. It is a very high limit. Take now the case of occupancy tenants and statutory tenants. I have had very careful surveys made in Muttra where there is a great deterioration of agricultural conditions. I have myself supervised these inquiries in Gupa and Chhatra villages in tahsil Sadabad. There I found that the indebtedness of a statutory tenant is to the extent of Rs. 17 to 21 per acre and the rent is Rs. 8 to Rs. 12 per acre, so that there the limit reached is twice the recorded rent. The statutory tenant is also very badly off but even for him the credit does not exceed more than twice the recorded rent. Here we propose that the statutory tenants' limit is 3 times the recorded rent. I similarly studied the indebtedness of occupancy tenants in those villages in the Muttra district in relation to the total debt per acre and I found that the occupancy tenant's debt per acre in this group of villages is Rs. 26 and the rent is Rs. 8 to Rs. 12 per acre, that is, thrice the recorded rent. In our recommendation in the case of ex-proprietary or occupancy tenant the figure is five times the recorded rent. I contend that such a limit, as is being proposed, is eminently desirable with a view, first, to safeguard rural money-lending as a business to prevent in other words the money-lender offering advances extravagantly and in the second place that such a limit is calculated to encourage agricultural thrift a great deal. I, therefore, commend this proposal for your acceptance.

Dr. Dubey: I beg to support the original proposition. Two important points have been made by Mr. Brijnandan Lal. One is that it will be very difficult for the borrower to get the necessary amount of security. There seems to be some misapprehension. If you are going to have ten times of land revenue from a single creditor, there is no reason to prevent him from borrowing the same amount of money from other creditors. There is no difficulty. Credit will not be curtailed at all. We are placing a limitation in the case of a single individual creditor and consequently so far as

the question of limit is concerned that amount can always be exceeded. Then again there is another point. The total value of landed property is usually something between 20 to 25 per cent. of the land revenue. If we make inquiries with regard to the total amount of advances given on the land, we will find that in most cases it is between 50 or 60 per cent. of the total market value of the land. So our proposition is actually trying to regularise the existing practice in that respect. People do not usually give more than 40 or 50 or 60 per cent. of the total amount of the market value of the land. Consequently there can be no question of limiting the credit at all. There is another point raised by Mr. Brijnandan Lal that people will not be able to get money on other property that they possess. There can be no difficulty with regard to this. I am one of those that should like to regularise village money-lending business as far as possible. Our cultivators have been borrowing on their own personal security, and on the security of their land. I want the cultivators to make savings so that they may have mortgageable assets. They should have negotiable instruments. They should have ornaments or something of that sort which they may utilise in times of need. The existing practice very frequently transfers land from one party to another and consequently I believe that there will be nothing to prevent them from borrowing on other property such as negotiable instruments or cash certificates or ornaments or house property or any other thing that they might have got. Consequently there can be no restriction of credit. I believe that the original proposition should be adopted in the form in which it has been put.

Thakur Muneshwar Bakhsh Singh: I oppose this resolution on the ground that this committee is for giving relief to the agriculturist. This resolution is not wanted for that purpose because by means of it there will be no restriction on the borrowing capacity of the agriculturist. One creditor may advance ten times and the other creditor may also advance ten times, so ultimately the property of the agriculturist will be overburdened. As a matter of fact there should be some restriction on the borrowing capacity of the agriculturist. I say, therefore, that there is no reason to pass this resolution from the point of view of the agriculturist, but from the point of view of the creditor certainly it is good. On that account I oppose it.

Mr. Sah: Without either opposing or supporting the motion I may make a few comments. It would be much better if other property except the agricultural one is excluded from the operation of this clause. Supposing an agriculturist has got other property besides agriculture, he may get the benefit of it so far as that property is concerned. In the second place this resolution does not do much good to the tenant because they can borrow three times the recorded rent from a single creditor. He can borrow from 100 creditors. It simply means that the benefit will be divided among many creditors. This resolution is harmless, but at the same time useless.

Chairman: I think this resolution is intended only to apply to the agriculturists' land and produce and the Secretary will move a formal amendment to make it clear.

Obviously if a man has got promissory notes or cash certificates, he ought to be able to raise money on this without any difficulty

Mr. Wajahat Husain: I beg to add the following words after the word "agriculturist" in resolution no. VII—"by sale or attachment of his agricultural land or produce". Then the resolution will read like this:—

"That after the passing of the Act, the principal of a loan recoverable by a single creditor from an agriculturist by sale or attachment of his agricultural land or produce will be limited as follows":

Dr. Dubey: I second the amendment.

(The amendment was put and carried.)

(The resolution as amended was put and carried unanimously.)

RESOLUTION VIII.

Mr. Wajahat Husain: The resolution reads as follows:—

"That in view of the sudden rise of approximately 50 per cent. in the value of money, the court in passing a decree against a landlord or tenant in respect of money loaned between January 1, 1917 and March 31, 1930, should be authorised to reduce the decretal amount, excluding costs, ordinarily by 25 per cent. but for stated reasons may refuse to reduce by not more than 15 per cent. or may reduce as much as 33 1/3 per cent."

Babu Madhusudan Dayal: I do not know why the words "landlord or tenant" have been used in this resolution. We have never used these words and why have we in this resolution departed from the procedure and used the words "landlord and tenant" in place of "agriculturist"?

Chairman: I have nothing to say in reply except that the sub-committee decided that this particular resolution, which they wished to recommend, should apply to landlord and tenant and not merely to the agriculturist. It is for this committee to endorse that or not.

Babu Madhusudan Dayal: Then the landlord does not come within the term "agriculturist"?

Chairman: It may or may not.

Dr. Mukerjee: May I move a formal amendment that the word "agriculturist" should be substituted for the words "landlord or tenant"?

Mr. Sah: May I request that the discussion on this resolution should be postponed till after the definition of the word "agriculturist" has been arrived at?

Chairman: The recommendation of the sub-committee itself is that it should apply to landlords and tenants. It is probable that the definition of the agriculturist will not include big landlords. As it has come from the sub-committee this includes big landlords and small landlords.

Mr. Sah: It might include big landlords and tenants after the definition of the word "agriculturist" is decided.

Chairman: I think your position will be the same as of Dr. Mukerjee who wants to substitute the word "agriculturist". I think I am pretty certain from the trend of the arguments advanced in this committee that they will not include big landlords in the definition of the word "agriculturist".

Mr. Sah: We have not arrived at any decision yet.

Chairman: But you have heard the trend of the discussion here. There is little doubt that this committee will decide that large landlords should be not included in the term "agriculturist".

Mr. Sah: May I have your permission to add the words "financier of agriculturist" to the words "landlord or tenant"?

Chairman: I do not object to getting a decision of the committee on that particular point, but it will be confusing to mix up the financier of agriculturist with other questions as to whether it should apply to the agriculturist or landlord or tenant.

Babu Madhusudan Dayal: It will be much better if the word "agriculturist" is defined first. Then it will be easier for the members to vote. As it stands at present it will be very difficult for the members to vote.

Chairman: If you want this it should have been sent as a regular amendment.

Mr. Sah: I move that the words "financier of agriculturist" be added to the words "landlord and tenant". In other words the benefit of this resolution should be given to the financiers or village money-lenders who advance to agriculturists and are poor men. They generally do business out of borrowed capital. If you are going to reduce the decretal amount by 15 and 25 per cent. of what they had lent and in extreme cases even as much as 33 1/3 per cent. then it is just and equitable that they must also get the same benefit as their borrowers.

Rao Krishnapal Singh: I second this amendment.

Dr. Mukerjee: Sir, I would like to oppose this amendment because the expression "A financier of agriculturist" is wide and vague. Suppose A is a village money-lender. He borrows his capital for money-lending business from X, a retail dealer in a neighbouring city. X borrows from Y a shroff. Y borrows again from Z which is a joint stock bank and the joint stock bank itself depends on borrowed capital. If we bring in the whole train of the financiers of agriculturists we do not know where to stop. Therefore I think Mr. Sah's amendment is out of place.

Maulvi Fasih-ud-din: I want to say that this very point was very thoroughly discussed yesterday and the whole of this house came to the conclusion that it would be expedient to allow the person who advances money to the agriculturist to have some privileges and safeguards as were given to the tenants and agriculturists and I do not think it will be necessary to repeat the same weighty arguments and, therefore, I strongly oppose this.

Mr. Sah: The only thing that I want to say is that yesterday we were reducing only the interest and today we are discussing the principal. As a matter of fact a financier of agriculturist is generally an agriculturist himself, so it is equitable that he should get benefit.

A voice: Not necessarily.

Chairman: Mr. Sah's amendment is that in resolution VIII in line 2 for the words 'landlord and tenant' the words 'financier of agriculturist,' be substituted.

(The amendment was put and lost.)

Chairman: Messrs. Anand-Sarup and M. L. Sah have put in amendments about the figures I find very little difference between them. Both want the reduction of the decretal amount by 15 per cent. and of the maximum from 33 1/3 to 25 per cent.

Lala Anand Sarup: I withdraw my amendment as I want to oppose the whole resolution.

Mr. Sah: I move my amendment, but I have already stated that I am opposed to the main resolution. I move that in paragraph 1, for the words "25 per cent." "more than 15 per cent." and "33 1/3 per cent." substitute "15 per cent." "altogether" and "25 per cent." respectively. There might be many cases in which the court should refuse to give relief altogether to the agriculturist and I think that the court should be left discretion to do it. As a matter of fact the reduction of 33 per cent. of the capital amount would hardly induce anyone to lend more money.

Maulvi Fasih-ud-din: On a point of order, Sir. Suppose we were to oppose this amendment of our colleague. Will then we be entitled to oppose the whole resolution if the amendment is passed.

Chairman: Yes. Is anybody going to second the amendment?

(The amendment was not seconded and it fell to the ground.)

Dr. Dubey: I beg to withdraw my amendment.

Mr. Rudra: I beg to move my amendment that I have submitted. Add "That the provisions of this resolution should apply to all credit supplying agencies, including banks or other registered institutions." The reasons are. There should be no discrimination in favour of banks or other organised institutions. We have to be very careful in regard to our legislation. We wish to be fair to all the credit institutions of the country and I think we must give fair treatment both to organised institutions and the unorganised or indigenous institutions.

Chairman: The resolution as it stands and accepted by the majority of the sub-committee includes banks. It was Dr. Dube who suggested the inclusion.

Mr. Rudra: If that is so I withdraw it as banking institutions will be included.

(The amendment was withdrawn.)

Mr. A. A. Waugh: I wish to move an amendment as follows. In the fourth line for the words "ordinarily by 25 per cent." read from 6 1/4 to 25 per cent." and omit the words

"may refuse to reduce by not more than 15 per cent. or." Then the resolution will read.

"That in view of the sudden rise of approximately 50 per cent. in the value of money, the court in passing a decree against a landlord or tenant in respect of money loaned between January 1, 1917 and March 31, 1930, should be authorised to reduce the decretal amount, excluding costs from 6 1/4 per cent. to 25 per cent., but for stated reasons may reduce as much as 33 1/3 per cent."

My reason is that scaling down by 15-25 per cent., with a reduction of 25 per cent. as normal, makes no allowance for the very different rates of interest at which these debts were contracted. If we take Rs. 2 per Rs. 100 per mensem compound interest as being a common rate for zamindari loans recently, at the other end of the scale we have certain estates and others who have lent very substantially at 6 to 6 1/2 per cent. per annum simple interest. If then we take a period of only three years as the average life of a loan contracted before the fall in prices up to the time that the suggested step would come into force, then, if not paid up at the end of the three years, the loan of Rs. 100 at 2 per cent. per mensem would stand at about Rs. 190, whereas the loan of Rs. 100 at 6 1/2 per cent. simple interest would stand at Rs. 119-8 only. I think it would be fair to argue that, if the former loan should ordinarily be reduced by 25 per cent., then the latter loan should be reduced by only 6 1/2 per cent., or one anna in the rupee. Against this it may be said that the basic reason for reducing these loans is the fall of roughly 50 per cent. in prices. In theory it may be all right to say that all loans should be reduced on this basis; but in practice everyone knows that all lenders are doing very badly in recoveries both of interest and capital in any case, and few can hope to recover in full whether there is legislation or not. Therefore, if there is legislation, it is only fair that the courts should take account of the very different rates of interest in force, and should have discretion to vary the scaling down of the capital from 6 1/2 per cent. to 25 per cent., or even as much as 33 1/3 per cent.

Dr. Dubey: I second the amendment of Mr. Waugh. In seconding this amendment I have to say that substantially the same amendment was moved by me in sub-committee no. I but unfortunately we could not carry it. I think 6 1/4 per cent. is sufficiently good in that respect where the loans are very recent. The actual application of 6 1/4 per cent. will mean merely the removal of interest charges or something like that leaving the repayment of principal quite alright. This would be a very great check on the credit system. I think Mr. Waugh's proposal is very sound and I support it.

Mr. Habib-ullah: I beg to oppose the amendment. Mr. Waugh suggests a proportion in cases of high and low interest and he goes so far down as to impose a penalty on the interest which is only 6 per cent. Supposing a man has advanced a loan at 6 per cent. and his sole income is from money-lending, how can he equitably expect to have his lakh of rupees which has become Rs. 1,19,000 in three years. I think this is

clearly a suggestion based on the ground that the value of the rupee has gone up and prices have gone down. This suggestion should be made practicable. If the Government itself is paying 6½ per cent. on their loans can they ask us to adopt a measure by which they give us more because the value of the rupee has gone up? I think any amendment to this resolution should be thought out carefully. After all there are money-lenders and money-lenders. If you lay down a minimum rate of interest as a fair interest I will support it, but if you put a penalty from top to bottom which is right up to 18 and 24, I do not think it is a fair proposition. In the circumstances I cannot support Mr. Waugh's amendment.

Dr. Mukerjee: I would like to oppose the amendment for another reason. Our object is to mitigate the hardship of small debtors as the result of the fall in agricultural prices. Since 1925 there has been a fall of something like 50 per cent. or more in the prices of agricultural produce in these provinces. Now the resolution seeks to mitigate the hardship by authorizing courts to reduce the decretal amount ordinarily by 25 per cent., though the fall in the prices of agricultural produce is 50 per cent. If the court is authorized to reduce the decretal amount by 6½ per cent. the hardship will not at all be alleviated. I should think that sheer justice demands that the court should be authorized to reduce the decretal amount at least in the same proportion as the fall in agricultural prices. If you will read the note of the sub-committee you will find the remark, "Where the agriculturist is up against the money-lender, the agriculturist has suffered an unmitigated loss owing to the fall in the value of agricultural produce, while the money-lender stands to gain something by the rise in the value of his money."

The object of this resolution is to compensate this loss where the loss has been 50 per cent. Six and one-fourth per cent seems to me much too small.

Rao Krishnapal Singh: I wish to make another amendment.

Chairman: What is the amendment? Is it an amendment to Mr. Waugh's amendment?

Rao Krishnapal Singh: It can be an amendment to Mr. Waugh's amendment, Sir, I would put it like this I want to substitute 50 for 33½ and to add to provisos.

Chairman: I am afraid that cannot come in as an amendment to this amendment.

Mr. Rudra: I would like to suggest a sliding scale system. I see great difficulty in it, but justice will be achieved by this means.

Chairman: The committee has already dealt with the scaling down of interest in resolution no. II and this resolution is intended to deal with the principal.

Mr. Rudra: I propose a sliding scale based on the rate of interest charged or I may suggest another thing by which time these things will come into execution. It is quite likely that there will be a slight

tenancy towards a rise in commodity prices and when the commodity prices go up the burden of the debt will be reduced. I know that there are practical difficulties in a sliding scale. Mr. Habibullah may be opposed to the sliding scale either on the principle of interest or on the principle of commodity prices ruling at the time of scaling down

Chairman: It is very difficult to have a general proposition like that when there is no formal amendment. I think I had better put Mr. Waugh's amendment. The resolution as it came from the sub-committee requires a court to reduce the decretal amount ordinarily by 25 per cent. and gives discretion to courts to reduce it by not more than 33½ per cent. Mr. Waugh suggests that for the figure "15" the figures and words "from 6½ to 25" be substituted. There should be no other minimum limit and that the maximum limit should be 33½.

(The amendment was put and lost.)

Chairman: I do not know whether it is the general sense of the committee that after this resolution is passed it should apply to landlords and tenants or whether the word "agriculturist" should be substituted for the words "landlord and tenant." If Mr. Sah will now move that the word "agriculturist" be substituted for the words "landlord or tenant" I will put the amendment.

Dr. Mukerjee: If you give me permission, I would like to substitute the word "agriculturist" as will be defined later on for the words "landlord or tenant."

Babu Madhusudan Dayal: I second it.

Mr. Sah: When we vote for this amendment, shall we be entitled to vote against the main resolution.

Chairman: Certainly.

Maulvi Muhammad Obaid-ur-Rahman Khan: I oppose the amendment. As has been said by the President himself I understand that there was a controversy upon that point in the sub-committee.

Chairman: There was a difference of opinion.

Maulvi Muhammad Obaid-ur-Rahman Khan: There was some discussion about it in the sub-committee. These words were intentionally put in this very resolution because we find that in other resolutions only the word "agriculturist" has been put. I am at a loss to understand why some honourable members are after the removal of these words from this resolution. What is the harm if the words "landlord or tenant" were retained. I am quite sure that the agriculturist will be defined in such a way that it will cover all "landlords and tenants." I do not think why the words "landlord or tenant" should be deleted at this stage from this resolution. Landlords must be benefited. If a landlord has been embarrassed badly and if the money-lender has crippled him down, I think he must also get the benefit of this resolution. What is the wisdom to deprive him of the privilege, I cannot understand. I think that members will not insist upon removing the words "landlord or tenant" from this resolution. It is no use creating bitterness in the minds of some members.

Dr. Mukerjee : It is far from my mind to create any bitterness. I withdraw my amendment.

Chairman : Is it the wish of the House that the amendment should be withdrawn?

Lala Anand Sarup : I object to its withdrawal.

Chairman : Then it cannot be withdrawn.

Dr. Mukerjee : Landlords specially the bigger ones should not insist on relief as embodied in this resolution. Like all big industrialists who have also been hit by the present depression they should not want any relief due to this fall in agricultural prices. Such a relief will ultimately re-act upon the exchequer of the state. I do not think my friends will say that there is no difference as between a small cultivating proprietor owning 10 bighas of land and a big taluqdar.

Chairman : The amendment proposed is that for the words "landlord or tenant" the word agriculturist be substituted. The word "agriculturist" will be defined provisionally by this committee and finally by the Council.

(The amendment was put and carried.)

Chairman : I find that Rao Sahib Krishnapal Singh wants to move another amendment about the figures. Is it the wish of the committee that we should discuss further amendments or whether we should vote on the resolution now?

Rao Krishnapal Singh : My amendment is this. I will withdraw it if I find that Mr. Waugh and Mr. Sah are not very keen as regards theirs. It is this. In line 6 substitute "50" for "33½", provided that in cases of loans and advances at 7 per cent. per annum or less the amount to be reduced should not be more than 25 per cent. and the court may refuse to reduce it by more than 10 per cent. and provided further that the former provision will apply only to loans of more than five years' standing and that the scaling down of debt should depend upon the rate of interest charged and the amount of interest realised. The condition of the landlord and smaller agriculturist is not much the same and therefore they should be treated differently. Landlords are a people who obtain loans at a lower rate of interest whereas a small cultivator and a small zamindar has to pay a much higher rate of interest. Besides there is such a large difference between the assets of the two. big zamindars have big assets whereas a small cultivator or a small zamindar has very limited ones. Therefore they should be treated separately. We know, Sir, there is plenty of material in the Banking Inquiry Committee Report but I shall read out the figures given by Dr. Jain who was the Secretary of the Committee.

Chairman : Please be brief.

Rao Krishnapal Singh : It will show how much difference there is. He says.—"The usual rate of interest on various kinds of advances are Mittidar Hundi 7½ per cent. loans

on mortgages of landed property 7½ to 12 per cent. mostly 9, loans on bonds 9 per cent. loans on pro-notes 12 to 18 per cent., pawning of ornaments 18½ to 37½ per cent. *kist* loans, instalment system 44 per cent., petty *kist* loans from day to day 570 per cent. that is one pice per rupee per day and loans from Aghas, Khans and Harias 75 to 300 per cent. These figures were given by Dr. Jain, who was the Secretary of the United Provinces Banking Inquiry Committee and they should be taken as reliable. Therefore there is a vast difference between different kinds of loans and they should be treated differently. My object is that if money has been advanced at least the capital should be safeguarded. If we take the average rate of interest as 25 or 24 per cent. as put down by the Banking Inquiry Committee we come to the conclusion that in a loan of five years' standing or more at least the capital has been returned with a certain amount of interest. Therefore if that amount of capital is reduced, it would be only fair. Money-lenders will not lose anything out of their principal. Sir, I have been able to talk to several money-lenders and they seem to be willing to forego a major portion of interest in these very unfortunate times but they would insist on realising the entire amount of principal. I think it would be better if we treat the class of big landlords separately from the class of small agriculturist. There is one more point. If the money-lenders insist on realising the entire amount, I do not suppose they will be able to do so because estates have been reduced and it would not be possible for them in a majority of cases to realise the whole amount of their debts.

Mr. Brijnandan Lal : I second the amendment.

Mr. Habib-ullah : I oppose it.

Babu Awadh Bihari Lal : We have made a provision for reducing the interest. Nobody can realise anything like Rs. 300 or Rs. 400 per cent. as my friend has been quoting. Nobody can realise an interest more than the capital itself. If loans are advanced for certain terms the capital would be doubled in sixteen years at 6½ per cent. They cannot get more. If the interest is 15 per cent. it will be doubled in 6½ years. Nobody can get more than the amount of the capital. The question of reducing the capital and the principal should be independent altogether to the rate of interest charged because on the principle that when the value of the rupee has increased by 50 per cent. or that everyone who gets back his Rs. 100 for Rs. 100 practically gets Rs. 150. Everyone who advanced money at an interest of 6½ per cent. expects 6½ only and anyone who advanced at the rate of 24 per cent. fears that he would in few cases lose his interest and principal altogether. Therefore he charges more. I think that all considerations for the reduction of principal on the basis of the rise in the value of money should be independent of the rates charged and therefore I oppose it.

Chairman : I will put the amendment now.

(The amendment was put and lost.)

At this stage the Committee dispersed for lunch.

July 8, 1932.

The Agricultural Debt Committee met after lunch at 2.15 p.m.

Chairman: The sub-committee which we appointed to draft the definition of "Agriculturist" has been very prompt and perhaps I shall fall in with the wishes of the committee if I put up at once the definition of "Agriculturist," which they have proposed, in order that we may know where we stand. This is the definition proposed by the sub-committee:—

"Agriculturist means a person who by himself or by his tenants, servants, or hired labourers earns his livelihood principally by agriculture or engages principally in agricultural labour, provided that he does not pay a land revenue exceeding Rs. 200 per annum and his income from sources other than agriculture does not exceed Rs. 500 per annum."

Would the committee like to think over the definition or propose amendment straight away?

Babu Madhusudan Dayal: I would like to limit the land revenue to Rs. 100 instead of Rs. 200.

Mr. Sah: We should have some time to think over the definition. We can take it up tomorrow or later today. First we should finish resolution no. 8.

Resolution no. 8—(continued).

Lala Anand Sarup: I rise to oppose this resolution as a whole. We have reduced the rate of interest to a reasonable extent and I do not consider it reasonable or just that we should reduce the principal amount also. In no country in the world there is such a law which permits the reduction of capital money. Money-lenders are considered enemy of the agriculturists, but the Royal Commission on Agriculture and the Central as well as the Provincial Banking Inquiry Committee maintained that the money-lenders are necessary for the agriculturist, and without them they cannot do even the work of cultivation or marriages, etc. If such hard and fast rules are made, I am sure that the flow of money will be stopped and the agriculturists would not get any money even when they are in urgent need of it. The allegation that in view of the sudden rise of approximately 50 per cent. in the value of money the principal money could be reduced does not appeal to me. In this way the same principle could be applied in the case of landed and house properties also. How awkward it looks to the man in the street. For these reasons I oppose this resolution and hope the committee will deal with this resolution impartially and keep the interests of creditors as well as debtors in mind. I am afraid that if we accept the principle of the reduction of capital, one day Government may come forward and say that the value of Government loans, War bonds, Government promissory notes, etc., may also be reduced by 25 per cent.

Thakur Muneshwar Bakhsh Singh: I support the resolution on the ground that it is by way of further relief to the agriculturists. It does not mean that the principal will necessarily be

reduced. What it means is that the decretal amount can be reduced. The decretal amount includes both principal and interest. When the decree is being passed, then certainly it includes both principal and interest. Supposing a creditor advances Rs. 100 for three years at the rate of 36 per cent. Now the court instead of allowing an interest of 36 per cent. in the decree will reduce the interest to 15 per cent., i.e., the decree will be for Rs. 145. The decretal amount i.e. the principal with interest will be reduced by the court by 10 or 15 per cent. as it likes, so only interest will be reduced and not principal as the creditor will still get about Rs. 125. Rai Sahib Lala Anand Sarup has said that flow of money will be stopped. I may point out to him that this provision will apply only to past transactions and not to the future transactions. So it cannot affect the flow of money and hence I support the resolution.

Dr. Mukerjee: I would like to oppose the arguments that have been used by Lala Anand Sarup. We should all remember here that most classes have made sacrifices in the present situation: the state has made a sacrifice of its revenue, the landlord has also made a sacrifice in the form of reduction of rents to figures which are reasonable at the present level of prices, and now we are asking the money-lender, who holds a more monopolistic position than the landlord, to contribute his due quota of sacrifice with a view to solve the exigencies of the present agrarian crisis. As my friend has just now pointed out, there is not going to be any such wholesale reduction as debts as Mr. Anand Sarup anticipates. The decretal amount does include both principal and interest and if it be reduced to such reasonable figures as are embodied in this resolution, there will be no danger to money-lending as a business. On the other hand, if through the passing of such a measure, a good portion of the agricultural debt which is irrecoverable, and is understood as such by the money-lender, is cancelled, his business will thrive rather than deteriorate, for obviously if there is a burden of irrecoverable debt on the land not merely money-lending but also agriculture, which ultimately pays money-lending, suffers. In this connexion I would like to read out the remarks of the Royal Commission of Agriculture:

"The existence of a heavy burden of debt of this character exercises a most detrimental influence on agricultural progress. This is due not only to the fact that an important source of credit available for improvements is correspondingly curtailed, but also because it is found that, in the case of usufructuary mortgages, the mortgagor too often declines to the position of a permanent tenant under the mortgagee, paying, not a fair rent, but the utmost the lender can extract or extort."

A position like this is good neither for agriculture nor, I must reiterate, for money-lending as a business. If the flow of credit into the land is to continue, there must be a flow of agricultural produce back from the land to the coffers of the money-lender and this is possible only if the latter accepts the situation that a large portion of the present agricultural indebtedness is absolutely irrecoverable.

Mr. Rudra : It seems to me a difficult thing to make up my mind which side I should vote. We have imposed a restriction, which means a sacrifice, which Dr. Mukerjee so much desires in future from the money-lenders in the form of scaling down of the rate of interest on loans that have already been contracted. We wish to place another burden on the money-lending sections of the community by reducing the principal. In view of the existing economic circumstances I think the principal should be reduced because of the great slump in prices. I would have gladly voted if the provision of the restriction or the scaling down of interest had not been made applicable in the case of debts that had been contracted. If we had said that we shall impose these new rates of interest on debts that will be contracted in the future then I certainly think we would be justified and wholly justified in asking the money-lending sections of the community to share the burden with the rest of the country by scaling down their principal. I suppose it is too late in the day now to argue that this reduction should apply with regard to old debts. My difficulty lies in that way. Then another difficulty arises in my mind and it is this, as Dr. Mukerjee himself has said, agricultural processes cannot be carried on without the assistance of credit. If we are going to impose this restriction on the principal, then certainly I think we are putting a sort of obstacle in the flow of credit. We shall shake the very fabric of confidence not only of the money-lending people but ultimately of the agriculturists too. We should vote on this resolution with our eyes open if we are going to ask the money-lenders to reduce the principal sum. If that is accepted then, as pointed out by Rai Sahib Lala Anand Sarup Sahib, probably Government and other bodies who are creditors would also undergo a sacrifice. So it is extremely difficult to see how to adjust the present situation.

Mr. Sah : All over the world the sanctity of contracts is held to be sacred and this resolution is rather giving a blow at the root of the very foundation on which our credit system is based. The argument that it is on account of the fact that there has been a rise of approximately 50 per cent. in the value of the money that the debts should be reduced is ingenuous. Of course the gentleman who conceived this idea would have been thanked by the Lausanne Conference had this argument been put before them.

Dr. Mukerjee : They are wiping out debts altogether, but we are not.

Mr. Sah : No, they are not.

Lala Anand Sarup : If this resolution is passed, Government will also be entitled to demand that its War debt should be reduced. As a matter of fact Government has already done that. The value of 3 per cent. and 3½ per cent. securities has gone down. Their value depends on the condition of the market. The second question is as regards the sacrifices by money-lenders. They have made enough sacrifice by reducing the rate of interest. Dr. Mukerjee wants to make distinction between recoverable and irrecoverable debts. As a matter of fact this resolution as it stand helps not only the persons

who cannot pay but all persons irrespective of the fact whether they can or cannot pay. The argument as regards slump in prices does not stand. When the prices went up the money-lenders did not get the advantage of the rise in prices. It was the agriculturist or the zamindar who got the advantage of that. As a matter of fact if we pass this resolution, I do not know where we will stop, and I am afraid no one will be coming forward to lend his money. Today it is one class that wants to reduce its debt and tomorrow there will be another class.

Mr. A. A. Waugh : Sir, to begin with I was in favour of scaling down pre-slump debts, but now that so much is contemplated by way of restrictions on rates of interest, on improvident loans, on execution of decrees, etc., I would oppose the resolution. It leaves insufficient discretion to the courts, and takes little account of the great differences prevailing in the rates of interest in force. Compulsory scaling down of loans will impede economic recovery by making people afraid to engage in ordinary business relations, and is a bad precedent.

Babu Madhusudan Dayal : There is, however, left nothing important to argue to oppose the resolution. Almost everything has already been said by my various friends. But the one thing I just want to bring to the notice of the House is that if the credit of indigenous banks, which have developed within the last 20 or 30 years in the United Provinces, is reduced against the debtors, what protection are we going to give them against the depositors. When the depositors will come to know that the banks' money which had been advanced to cultivators and other small zamindars has been reduced, they will run on the banks for the withdrawal of their deposit and naturally every bank in the United Provinces will have to close its doors. This will cause great disturbance throughout the whole Province and the result will be that there will be none to advance money to anyone. On the other hand instead of lending or depositing their money they would prefer to keep it under their pillow. There will be one more difficulty. The petty zamindar nowadays pay Government revenue not from their own pockets but after borrowing from their neighbours and if we legislate as we have proposed in this resolution then they would not be able to get a penny and you yourself can understand what will be the position both of the petty zamindar and when the revenue will not be coming to the Government also. If such a legislation is enacted, for some time at least credit will be altogether shaken and it will be restored after many months or say after many years. An example of the reduction of the principal money will be set up by the United Provinces for the first time. Had we arrived at the definition of "Agriculturist" with a view to give relief to the poor cultivator, for the definition of which I have been pressing from the very beginning, it would have been quite easy for the members to vote. But now it is very difficult. Early this morning when Mr. Waugh's proposition was before the House, we were not certain what the definition of "Agriculturist" will be. Unfortunately that amendment was negatived. I press upon the House that we must

come to a certain definition of the "Agriculturist" and then I think it would be much better if we vote on this resolution. Even now it is not late and I would request the President that before taking a vote on this resolution we should define "Agriculturist". This is my suggestion and it is for the House whether to accept it or not.

Dr. Dubey: I am very sorry that I have to oppose the proposition as it stands in the original scheme. It has become particularly necessary in view of the fact that Mr. Waugh's very reasonable amendment has been lost this morning. As a matter of fact this is the extremist possible step to suggest that there should be a general scaling down of the debts. As I have said elsewhere, the experiment was tried in two countries, viz., Germany and Rumania. That has proved unsuccessful in both the countries and the sources of credit have considerably dried on account of such extreme measures. As I have repeatedly said during the course of our deliberations during the last two days that 95 per cent. of the credit is supplied by the money-lending classes at present and only 5 per cent. is supplied by the co-operative societies and the Government agencies.

Pandit Shree Sadayatan Pande: And what about landholders?

Dr. Dubey: Money-lending classes include landholders. The total amount of credit supplied by them is 95 per cent. As 95 per cent. of the credit is at present supplied by the money-lending classes, it is very necessary that we should not take any step in a hurry by establishing quite a new principle with regard to the scaling down of debt. Wherever, it has been done, it has been followed by disastrous consequences. In that connexion a great deal has been said by a Collector in these provinces. He said that the two most important things that we know so far as the system of rural credit is concerned are that the rate of interest should be reduced and that the rate of interest can be reduced if we increase the security of the agriculturist and secondly the rate of interest can be reduced if the confidence of the money-lending classes is not lost. He goes on to say: "It is very necessary to guard against the possibility that the money-lender may have reasonable ground for considering that any legislation that may be undertaken is unfair to him or amounts to expropriation. If he has reason to think that a zamindar council, guided as it is at present by officials, has made up its mind to treat him unfairly he will be justly apprehensive of what will happen under Provincial Autonomy and begin to curtail agricultural credit at once. I consider it of the greatest importance that the spirit of 'down with the banias' (which seems to have inspired a good deal of the Punjab legislation) should be kept out of the present controversy in the United Provinces." He goes on further to say: "Rather than have his client default the money-lender will generally be willing to accept a very low rate of interest, and nothing would more quickly produce a general state of insolvency among the tenants. Witness, the large number of surrenders filed last year. Legislation should take the form of giving powers

to courts to reduce the rate of interest rather than of any attempt to reduce the principal, which would be bound to shake the confidence of rural money-lender". Under the circumstances, Sir, I submit that I am on principle opposed to the scaling down of debts unless at the same time very active steps are taken for the sake of making immediate payment to the creditors.

Dr. Mukerjee: On a point of fact, Sir. The Banking Enquiry Committee say that only one-third of the total amount of credit available for the peasants of this province is supplied by money-lenders—both village and town money-lenders combined.

Mr. Habib-ullah: Without entering into the controversy which has just been started between two Economists—Doctors—, I shall speak in general terms only. I quite agree with the previous speaker who is against scaling down of the principal. I think if we cut down the principal it should be only in the circumstances in which exorbitant rate of interest has been charged and that the creditor has already realized a very great portion of his interest. If his principal is cut down even then he makes a fair amount of interest for the capital. But I am against the scaling down of principal and interest recklessly even if it was going to be reduced by 6 per cent. I think it is very very hard. It would be discouraging creditors to advance money. When they will know that there is a provision on the Statute Book by which principal, whatever, the interest may be, is liable to be cut down, nobody would be able to lend money. I think this resolution as it stands should go out.

Chairman: The resolution runs:—"That in view of the sudden rise of approximately 50 per cent. in the value of money, the court in passing a decree against a landlord or tenant in respect of money loaned between January 1, 1917 and March 31, 1930, should be authorized to reduce the decretal amount, excluding costs, ordinarily by 25 per cent., but for stated reasons may refuse to reduce by not more than 15 per cent., or may reduce as much as 33½ per cent."

(The resolution was put and lost.)

RESOLUTION IX.

Chairman: The resolution is:—"That no suit for money may be brought against an agriculturist except in the district where he resides or in the district where the money was paid to him.

"That a loan taken in grain may be repaid with interest in the same kind of grain within twenty months at the option of the debtor."

Lala Anand Sarup: I propose that the first paragraph of the resolution should be deleted, because the present law already provides that a suit can be brought where the debtor resides and the district where the money was paid to him. I do not think that it is necessary that it should be provided here. I hope Mr. Mogha will be able to enlighten us on the subject.

Mr. Mogha: The third alternative is where the money is payable under the contract. A suit can be brought at that place also.

Mr. Brijnandan Lal : I support Lala Anand Sarup's amendment. Let me give you a concrete instance. Suppose an agriculturist goes to Bombay to sell his produce and he borrows say Rs. 200 from the agent there. The result will be that the Bombay man will have to come to the place where the tenant resides in order to file a suit against him.

Mr. Mogha : No, he could sue where the money was paid. The third alternative is "where the money was payable under the contract". If he takes a loan at Bombay, resides at Benares and makes the loan payable at Allahabad, he can be sued at either place.

Mr. Brijnandan Lal : Suppose the money was not paid to him there, it is paid to him at another place. In that case will the suit lie at the place where the money was paid or where he resides? In that way there can be a fourth alternative place also. The place where he was residing, the place where he entered into contract, the place where the money was paid and the fourth place where money is made payable.

Mr. Mogha : You would be confining it to two places: where the money is advanced to him or where he resides. It would be interfering with the law as it exists. This will create difficulty in the case of landlords as in their case also we will be excluding the place where the money may be payable.

Mr. Brijnandan Lal : That means we are excluding the two places—where the money is payable or where the contract was entered.

Mr. Mogha : There are very few cases in which money is advanced at a place different from that where contract is made.

Mr. Brijnandan Lal : I do not see the advantage of this. What is the idea of confining it to a place of residence? The agriculturist will not derive any particular advantage and at the same time it will be a disadvantage to the creditor.

Mr. Mogha : Suppose there is a money-lender of Lucknow who has got his business in the districts of Unao and Cawnpore. He goes to the villages in Unao and Cawnpore districts and advances money on pronotes. In those pronotes he has a condition that the money will be repayable at the house of the creditor at Lucknow. If this resolution is carried then he would not be able to sue at Lucknow.

Mr. Sah : There was one member of our sub-committee who specially put forward this view and gave reason for that.

Pandit Gursewak Singh Upadhya : That was the one reason I advanced.

Chairman : Suppose the creditor makes it payable at half a dozen places, and if the man lives in Unao he can be sued in Benares, Par-tabgarh and so on.

Mr. Rudra : The Labour Commission has also brought out this point in their report.

Mr. Sah : I propose that the following words be added at the end of the first para-

graph: "or in the district where the creditor resides". The resolution will then read: "That no suit for money may be brought against an agriculturist except in the district where he resides or in the district where the money was paid to him, or in the district where the creditor resides."

Chairman : I have no objection to the committee expressing an opinion on that. I will allow you to make the amendment.

Mr. Mogha : I may point out that under the present law no creditor can sue at a place where he resides.

Mr. Sah : In actual practice what happens is that if money is advanced at Cawnpore the *kistwala* generally put down the name of six or seven places and also the district where they reside. Under the present law a debtor can be sued in six or seven districts and one of which is the place where he resides. Our object in excluding the district where the cause of action arose, or where the default took place or where the money was payable is to save the debtor from being sued in six different courts. If he is sued in only one of the three courts the result of this will be that it will accommodate both the debtor as well as the creditor. It would be a hardship to the creditor to go where he lent the money or where the contract was entered. This is generally done in the case of *kist* otherwise in most of the cases the suits are brought in only two districts, either where the money was borrowed or where the defendant resides.

Mr. Habib-ullah : This is a very plain and simple resolution and I thought there was no contentious point in it. Instead of three alternatives which existed in law a fourth alternative has been brought in, i.e., the place where the money-lender resides. That makes matters more complicated. The existing provision which has been carefully thought out really leaves no margin for complaint either to the debtor or to the creditor. We must take it as it is. In practice money is paid either in the district in which the debtor resides or where the creditor resides and it is generally paid at one place or the other. But if we begin to use our imaginations and bring all the hypothetical cases I think there may be other amendments besides the fourth alternative suggested. I therefore recommend that the House should accept the provision as it stands and oppose the amendments.

Pandit Gursewak Singh Upadhya : When Mr. Sah proposed his amendment he had in his mind the cases of the Punjabis and the Haraias who come from Bihar. You would never like a Punjabi suing his debtor residing in Benares at Amritsar, and the same applies in the case of Haraias coming from Bihar.

Mr. Sah : My proposal was a sort of compromise between the two. According to the present law supposing a man residing in Lucknow advances money to a man at Alinora he will make a provision in the contract that

the money will be payable at Lucknow and the creditor can sue him at Lucknow. My idea in present amendment was to have a compromise and exclude five, six or seven places and include the place where the creditor lived.

Chairman: The first part of the resolution with the addition will read: "That no suit for money may be brought against an agriculturist except in the district where he resides or in the district where the money was paid to him, or in the district where the creditor resides."

(The amendment was put and lost.)

Chairman: Mr. Anand Sarup's amendment is that the first paragraph of resolution IX be deleted.

Lala Anand Sarup: In view of the explanation given by Mr. Mogha, I beg to withdraw my amendment.

Babu Madhusudan Dayal: Sir, I would like you to put both the parts of the resolution separately to vote.

Chairman: The first part of the resolution is: "That no suit for money may be brought against an agriculturist except in the district where he resides or in the district where the money was paid to him."

(The resolution was put and carried.)

Chairman: The second part of the resolution is: "That a loan taken in grain may be repaid with interest in the same kind of grain within twenty months at the option of the debtor."

Babu Madhusudan Dayal: Generally this grain is advanced to the cultivator on *sawai* system. If I advance one maund they pay back 1½ maund. I do not understand what does "within twenty months" mean. At present I get my grain back in six or seven months with 25 per cent. more addition in it. According to this resolution it will mean that I will get my grain with the addition of 25 per cent. after twenty months.

Chairman: The meaning is simply this that if you advance for *rabi* harvest a maund of grain and *rabi* harvest is a failure you can realize the grain from the next *rabi* harvest. It can be paid in grain and not in cash.

Mr. Rudra: It merely refers to the medium of payment and not rate.

Mr. Sah: My reading of the resolution is that if the man is not able to pay within twenty months then the creditor will be able to convert it in cash. I think that is the view of the committee.

Sahu Jwala Saran Kothiwala: If a man lends sugarcane, will he be able to recover sugarcane?

Dr. Dubey: We are talking of grain and not of seed.

Mr. Habib-ullah: This resolution is really a form of suggestion that a loan taken in grain may be repaid with interest in the same kind of grain within 20 months at the option of the debtor. This is a suggestion thrown out by the committee. There must be some clause to this effect.

Chairman: You mean debtor should have an option to pay in grain. There are cases where loan is in grain and the debtor is ex-

pected to pay in cash as it is entered in cash. If the loan is in grain, the debtor should be entitled to repay in grain.

Mr. Habib-ullah: I know that all grain advances are really treated as rent advances at *sawai* and *deohari*. I have not seen cases of grain treated as cash.

Chairman: But Government advanced *taqavi* in grain in the Jalaun district and are now asking in cash.

Pandit Gursewak Singh Upadhya: But the Agriculture department advances grain and realizes the same in cash after a certain period.

Mr. Habib-ullah: There is no harm in that, because they are told at the very beginning that they will have to pay back in cash. But if Government advances them seed, they need not pay Government in seed if at the time when the transaction is entered into they are told the price value of grain and that instead of grain cash will be realized. We can surely say that Government should first stop this malpractice. But I think this is really a thing which should be left to the parties and it is not a matter which should form a subject-matter of putting it on the Statute Book.

Chairman: I will now put the resolution to the House. It reads: "That a loan taken in grain may be repaid with interest in the same kind of grain within twenty months at the option of the debtor."

(The resolution was carried unanimously.)

RESOLUTION X.

Mr. Wajahat Husain: The resolution reads: "That the sub-committee recognize that their other proposals must give a serious shock to the credit system and that it is essential to take some measures to maintain the flow of credit; that to this end they would urge on the sympathetic consideration of Government that when debts have been reduced by a Conciliation Board or by a court to an amount which is within the capacity of the debtor to pay they should offer to advance directly or in conjunction with a Land Mortgage Bank or other institution the whole or a portion of this debt to the creditor, and recover the loan as *taqavi* from the debtor, the loan to be a first charge on the land or its produce after the payment of rent or revenue, as the case may be, and subject to leaving with the debtor what is required for his subsistence and the expenses of cultivation. Provided that the security is sufficient, such advances should be offered to the extent of whole or a part of the reduced debt in the shape of interest-bearing bonds."

Chairman: The words "or by a court" will go out.

Mr. Sah: May I have your permission to move this resolution as an independent resolution after other resolutions of the sub-committee have been discussed. Nine resolutions of the sub-committee no. 1 have been discussed and most of them have been lost. If the other resolutions are also lost, then I will withdraw this resolution. I would like to move this as an independent resolution if necessary after resolution no. 15.

Chairman: All right.

Maulvi Fasih-ud-din : I want to make one observation with regard to this resolution, and that is that the method of realizing *taqavi* is very very objectionable and for that reason the system of Government *taqavi* is not an unmixed blessing. According to the present rules the *taqavi* should be realized at the next harvest, and it is to be realized as an arrear of land revenue. Therefore in spite of the fact that the interest on *taqavi* is so low, *taqavi* is becoming very unpopular and it has proved to be a source of great nuisance and injury and has also resulted in the ruination of the tenants. I am sure under the present circumstances when the tenants are in such difficulties they will not add to their difficulties by applying for *taqavi* so long as the inflexible system of the recovery of *taqavi* is not immediately changed.

Dr. Mukerjee : I would support Khan Bahadur Sahib's observations as regards the inconvenience and unpopularity of *taqavi*. I would just like to point out that the Banking Enquiry Committee entered into the consideration of this and there was a whole chapter written about making the *taqavi* advances more popular. Conclusions were reached on the subject, but unfortunately somehow that chapter did not find its way to print. If the Secretary can find that out much of the labours of a future committee might be saved.

Maulvi Fasih-ud-din : And a most valuable chapter too.

(The resolution was put and carried.)

Hafiz Hidayat Husain : Before you take up the next resolution, my submission is that we must first be sure what an "Agriculturist" is, because much will depend on the definition of "Agriculturist." We have drafted a definition today and that is only a basis for discussion as you know, Sir. Will you confine it to all the landlords or to certain individuals ?

Chairman : In the sub-committee it was discussed for certain amount of time as to whether the examples of Bundelkhand and the Punjab should be taken and whether we should have an agriculturist caste i.e., whether we should not divide agriculturists and non-agriculturist in order to protect ancestral land. The sub-committee came to the conclusion that they would recommend to the committee that ancestral loan should be protected whether it was agriculturist or non-agriculturist.

RESOLUTION XI.

Mr. Wajahat Husain : The resolution runs "The Sub-Committee agreed that—

- (1) The Land Alienation Act should protect ancestral proprietors as such rather than agricultural castes from dispossession.
- (2) The Act should be applied to Agra, Meerut and Rohilkhand divisions in the first instance, and should empower the Government to extend it to any other local area which may require protection in future.
- (3) The scheme contained in the foregoing note that all alienations, voluntary or

otherwise, should receive the Collector's sanction for their validity be accepted."

Chairman : Three gentlemen have given notice that they will oppose the resolution.

Dr. Mukerjee : On the point of procedure, Sir. Professor Rudra's amendment relates to sub-paragraph (3) and my amendment relates to no. (1), so that my amendment may be taken up earlier.

Chairman : Yes.

Dr. Mukerjee : I would like to move the amendment that "the Land Alienation Act should apply to *sir* land rather than ancestral land as such. It should relate to that portion of the *sir* land, which is under the zamindar's own cultivation, or which has not been sub-let for a period exceeding three years".

The Land Alienation Act has a long history behind it. I need not go into that history, but I may simply reiterate that in the Deccan Agriculturist's Relief Act as well as in the Punjab Land Alienation Act the object of legislation had been to protect the cultivating proprietor from eviction due to the money-lender's decree. Now the protection of a hereditary cultivating class is also an imperative need in this province. I need not go into the past figures compiled for instance by the Chairman in his own Settlement reports or more recent figures given by other Settlement Officers. They indicate that there is a gradual expropriation of the hereditary Thakur Jat and Saiyid cultivating classes from the land and a situation like this is full of social risks. Now take a district like Budaun where in 1865 the percentage of cultivated area held by the Thakurs was as high as 36, in 1895 it was reduced to 27 and in 1925 it came down to 21. The money-lending classes have similarly increased their percentage of cultivated area. In 1865 it was 9, in 1915 it was 15 and in 1925 it was 20 per cent. of the cultivated area. Now all this expropriation need not be laid at the door of extravagance for which the cultivator should forfeit sympathy. With fear of ejection from his holding he fast loses all interest in the soil in which he was rooted. He becomes a mere tenant—at will or a sub-tenant who becomes indifferent to the land which ultimately deteriorates for want of manure and agricultural capital. On the other hand the prospects of land under the new money-lending classes are not brighter, because the new money-lending class is usually out of touch with the soil both by taste and tradition. All this emphasizes that we should protect the sturdy peasant community from a gradual expropriation. This expropriation has been specially marked within recent years and now on account of the fall in prices. Now while I plead for the protection of the hereditary peasant proprietor against eviction my sympathies are restricted only to the peasant proprietor in so far as he cultivates land, because after-all if the proprietor leases his land to others he ceases to be a peasant, an actual tiller of the soil. When he ceases to be rooted in the soil and becomes a rent receiver and intermediary, surely he does not need the sympathy as well as the special protection which underlie a Land Alienation Act, as was

found necessary for the Deccan or the Punjab. It is for this reason that I would confine the restriction of the transfer of land only to *sir*. Now it is true that when hereditary peasant is ousted from his *sir* he becomes an expropriatory tenant, but surely I need not remind you that there is a vast difference in economic status and facilities of credit and in economic initiative as between an expropriatory tenant and an actual cultivating proprietor - the owner of the land. The magic of property in other words is not there. There is yet another point which I would like to make. Unrestricted alienation of land coupled with freedom of sub-letting is an evil not merely because it directly encourages the money-lending classes to treat the land as a mere source of profit but it is also conducive to a growth of hierarchy of peasants down from the actual cultivating proprietors to the unsecured tenants. If we want to have inalienability in this province we ought to have inalienability only for *sir*, protecting only the cultivating proprietor and not the rent receiver or the intermediary and at the same time making it impossible for the inalienable land to be leased out or sub-let to others. If some such measure of restriction of the transfer of land is undertaken, this will at once be conducive to the stabilization of the most important elements in our agricultural community in this province such as the Rajput Hindu, the Rajput Muslim, the Thakur or the Jat who have played such an important part in the agricultural colonization and development of this province and yet it will at the same time prevent the growth of intermediaries who would feed upon the actual profits of the cultivation of land.

Dr. Dubey : I second the amendment.

Mr. Habib-ullah : I wonder if my friend Dr. Mukerjee who had just spoken on the subject was speaking as a politician or as an economist or a professor of economy, because he has made it very clear that he has no sympathy for the landholding classes except those who hold their ploughs and cultivate their land. He is only for the protection of those people who cultivate their own land as their *sir* and whom he calls a peasant proprietor and perhaps his ambition is to oust all the bigger landlords. Well, I was surprised when he ignored the landowning classes as he is paid out of their money, being on the staff of the Lucknow University.

Dr. Dubey : As if it is their own money.

Mr. Habib-ullah : Whatever may be, my view about Land Alienation Act is to contradict this statement that it is the *sir* holder and *sir* holder alone who requires to be protected. By instancing the two castes, Thakurs and Saiyids, he shows his ignorance of the cultivating classes. A Thakur is a warrior and a Saiyid is a religious leader and these two people in particular never cultivate their lands. Thakurs started agriculture when they found that there was not much fighting during the British period and they took to cultivation. I should like to know there are how many Brahmans and Thakurs who cultivate their own field. On the other hand Saiyid lives on the *nasrana* of Muhammadans. He does not take his plough and people will

go and plough his land for him. A Saiyid has never been known as a cultivator nor is a Thakur. Now, Sir, I do not know what is the underlying principle when he has said that he would only confine his protection to *sir* holders and would not extend it to anybody else. I would like to know from him the reasons. He does not consider anybody to be an occupier or owner of land except one who tills his own soil and cultivates his own field. I know what is behind that idea. I therefore strongly oppose the resolution.

Dr. Dubey : I support the proposition that has been moved by Dr. Mukerjee and in saying so I plead that it is the small landowner who has deserved the most of the State. As I said yesterday the number of small landowners in this province, i.e., those who are paying revenue of less than Rs. 100 or so is something like 83 per cent. of the total. Now we are protecting by the proposition of Dr. Mukerjee such a large class of landowners.

Mr. Habib-ullah : They are not all *sir* holders.

Dr. Dubey : The most important thing that Dr. Mukerjee aims at is that the small landowner should become in his borrowing capacity more or less equal to the status of an occupancy tenant so far as his borrowing operations are concerned. As a matter of fact it so happens that in most cases the landowner utilizes his borrowing capacity to his own disadvantage. In this country the large landowner has ceased to justify his existence. Here is a very important person speaking about the functions of landlords. Mr. Orwin, who has toured round all the European countries and studied the agricultural systems of those countries, says: "It is the landlord who supplies and maintains the permanent equipment of the agricultural industry. He is the owner of the land. It is his duty to drain and fence it, to make and maintain roads requisite to its use, to supply it with houses sufficient for the farmer and his men, to provide the building accommodation necessary for crops, live stock, machinery and the general purpose of the farm." I ask you, Sir, how many of these functions are performed here by our landlords?

Chairman : Are you not attacking the resolution rather than supporting the amendment?

Dr. Dubey : I am simply supporting the proposition.

Chairman : Dr. Mukerjee's amendment is: "The Land Alienation Act should apply to *sir* land rather than ancestral land as such. It should relate to that portion of the *sir* land, which is under the zamindar's own cultivation, or which has not been sub-let for a period exceeding three years."

(The amendment was put and carried.)

Dr. Mukerjee : I withdraw amendment 3(b).

Chairman : In amendment (c) you want to add Allahabad, Gorakhpur and Basti districts to the three divisions in which action should be taken first.

Dr. Mukerjee : Yes.

Mr. Brijnandan Lal : People of the Allahabad division do not want this.

The amendment was not seconded and therefore, fell to the ground.

Rai Rajeshwari Prasad : I beg to withdraw amendment 3(d) which appears in my name, as I have not yet ascertained the opinion of my constituency and I am not certain what the position actually is. If necessary I will move this amendment in the Council.

Mr. Rudra : I beg to move: "That free alienation of land should be allowed without the previous sanction of the Collector, except in cases where the transaction has taken place under the pressure of debts taken out for productive purposes." I think my amendment is a happy compromise between those who want Land Alienation Act to take effect and those who do not. As I said, I think, it meets the points of view of both parties. Personally of course I feel that for the strength, prosperity and stability of a nation, specially an agricultural nation, no system of agriculture is better than peasant proprietorship, but I think it is a far cry to expect such conditions to prevail at least in this province. I have taken the liberty to move this resolution because I feel that if India is to have a place under the sun, specially with regard to its export trade, its export largely for a long time will be composed of agricultural commodities or semi-manufactured commodities then the second most valuable asset of the country, the first being its people, is its land, should be in the hands of those people who will be able to utilize it fully and exploit it carefully. I therefore do not see any justification for this most valuable asset of the nation to remain in the hands of a group of people who have not justified that trust that had been entrusted to them by tradition or by history, and therefore I feel that this amendment that I have proposed does allow the passage of this valuable asset into the hands of those people who not only possess capital, but also business acumen and business caution. We are crying over the poverty of this country. There are various factors that are contributory to the maintenance of this poverty, but I think we will all agree that the unwise exploitation of land is one of the main causes of this poverty. I have moved about a little in this province and I found that these people include of course the ancestral landlords who are contributing and are giving their thought and energies to land development, the result of their labours are very fruitful and auger well for the future. In this body of people I must also include that community of the nation who are not usually recognized as agriculturists, I mean the money-owning classes. I therefore feel that there should be no solidification of land in the hands of those sections of the community who have not utilized their trust rightly. What I propose is the passage of this land only under circumstances where it has been proved that it has not been improved: where it has been proved that the present holders have tried their utmost to develop the land on economic basis but due to adverse circumstances, for instance, failures of rain or pests or other inclement visitations, have failed then certainly I say land should not pass out of the hands of the landowners. They have done their best. But in case where the

landowning community, whoever they may be have not done that, then I feel that this asset should pass into the hands of those who have both the money and energy and caution to do that. With your permission I wish to put forward this amendment.

Mr. Sah : I second the amendment.

Mr. Habib-ullah : Sir, I rise to oppose the amendment.

I think the mover of this resolution has got in his mind those apprehensions which people generally entertain as regards the Collector. They are forgetting they are launching upon new Reforms under which a Collector will not be as dangerous an element as he is magnified in their minds. He is going to be in this case nothing more and nothing less than an advisor and I think in the present state of our country the rural population requires good advice. It was on this principle that this element was introduced into this recommendation. I understand, though I was not in that committee, by reading the resolution as it stands that there had been a lot of discussion on this subject and our Economic Expert, Dr. Dubey, took exception to it on right lines when he observed that there was a danger if there was no controlling power. It was in these circumstances that the recommendation, as it stands here was drafted by that committee. I do not think really there is much in what my friend has said. We quite agree that people should be free to enter into such transactions; there should be no official control; but India, as it is today, does require some supervising or advising agency. In these circumstances I hope the mover of the resolution should not have those suspicions about official interventions as have been so far entertained. We feel we are launching on quite a different sort of Government.

Mr. Rudra : May I make a personal explanation? I have not the slightest suspicion against officials. It was far from my mind.

Dr. Dubey.—I think Professor Rudra has exactly interpreted my wishes as they are contained in the original note. I had said exactly the same thing that previous sanction should be rather an exception than the rule. Since our committee met a number of communications have appeared in the press and the most important of them was a communication by Raja Narendra Nath, discussing Land Alienation in the Panjab, where, he said, usually the permission of the Collector was not given. I do not vouchsafe the accuracy of that statement. There it is that permission has not been given by the Collector. A number of competent authorities have held—there is the Panjab Land Administration Manual, there is the authority of Mr. Darling, then there is the authority of the Central Banking Enquiry Committee, then again there is the authority of the Blunt Committee, then we find a number of other authorities who have spoken more or less in a similar strain that any restrictions on the alienation of property are injurious to the interest of those whom they seek to protect. The Banking Enquiry Committee has spoken about the whole thing in very strong terms and they have said

that such restrictions are very dangerous and the time has come most of them were actually removed. For instance the experts of the Banking Enquiry Committee say: "Many laws have been passed to save the debtors from the money-lenders. It is not inconceivable that this is one of the reasons why money is borrowed at excessive rates of interest. Where undue protection is given to the unscrupulous borrower the psychological effect must be harmful. The great majority of borrowers are honest people willing if possible to pay their debts. By the introduction of safeguards this class suffers. We suggest that the time is ripe for an examination by competent authorities of existing laws. We are not satisfied that they are working to the advantage of the country as a whole." I do not want to say at this stage much more about this. What I do maintain is that only in certain cases Collector might have the right of interference and usually transfer of land should be made without the previous sanction of that officer.

Chairman: Does Professor Rudra mean that land can be alienated by voluntary sale or by the order of the court unless the debts are only due to misfortune like famine or something like that?

Mr. Rudra: I feel that there ought to be freedom of sale, but in cases where it can be proved that a sale is due to certain unfortunate economic causes then of course the Collector can interfere and stop the sale. I agree with my friend Mr. Muhammad Habibullah that there should be caution and caution should be exercised by the officer, but that should only come when it can be proved that the money was improperly utilized.

Chairman: You are protecting only ancestral land or all land?

Mr. Rudra: All land. There are miscalculations in business, and in farming they are much more so, and those miscalculations should certainly be counted in favour of the people who hold the land at present.

(The amendment was put and lost.)

Mr. Sah: Sir, if the resolution is passed, I would propose an amendment that the two provisos should be added.

My first amendment is that the following words be added as a proviso at the end of the resolution:

"Provided that the proposed measure be not brought into force in any area unless it has been published for one year and objections are invited."

In moving this amendment my only object is that the opinion of those people whom it wants to protect or the opinion of those people where the property is to be declared to be unsaleable should be taken. It is only just and equitable that their opinion should also be taken before this measure is introduced.

Mr. Habib-ullah: Whose opinion?

Mr. Sah: The opinion of the public in the district or area where the measure is to be introduced.

Babu Madhusudan Dayal: I second it.

Mr. Habib-ullah: As a matter of fact this proviso should come in when the Bill is framed and presented to the Council. Then of course it will be the time to introduce such a proviso. The Bill will then be published and circulated and opinions invited and not at this stage of the committee. I think it is really a most inappropriate occasion for proposing such an amendment.

Mr. Sah: That is quite so, Sir, but I would like just to point out that if the committee recommends that Land Alienation Act should be extended to Agra, Meerut and Rohilkhand divisions, I would say that public opinion of the people of those divisions should also be invited before it is done.

Chairman: Mr. Sah's amendment is that the following proviso be added: "Provided that the proposed measure be not brought into force in any area unless it has been published for one year and objections are invited."

(The amendment was put and lost.)

Mr. Sah: My second proposal is that the following be added at the end of the resolution as a proviso:

"Provided that the proposed restrictions on alienations should not apply to measures taken to recover existing debts."

I beg to submit that the Act should not have any retrospective effect. As a matter of fact the landlords have been borrowing and the creditors have been lending on the assumption that they could recover from the land. This measure, if introduced, will certainly curtail the value of the land. It is just and fair to the creditors that this Act should not touch the existing debts, but it should touch merely the future debts.

Babu Madhusudan Dayal: I second it.

Mr. Habib-ullah: I oppose it.

(The amendment was put and negatived.)

Lala Anand Sarup: I rise to oppose the whole resolution and to say a few words. Conditions differ from place to place. What is workable in Bundelkhand may not be expected to be workable in Meerut, Agra and Rohilkhand divisions. Bundelkhand is more or less a famine stricken area with small holdings and no sources of irrigation, while the divisions just mentioned are well off with improved varieties of sugarcane, which are very lucrative crops and hydro-electric power will improve the cultivation a great deal by providing irrigation and power for home industry. The chief difficulty will be to divide the people into agricultural and non-agricultural classes. There is no fixed provision in the land for all. It certainly does not depend on the caste at all. Again so many of the so-called agriculturists are daily entering Government service or following the liberal professions that the ground would be almost daily shifting. This sort of legislation is wholly unsuitable for a democratic constitution and we are going to have Self-Government very soon as a result of the next Reforms. Preferential rights of Europeans in South Africa where Indians are not given any rights to buy land are resented throughout the length and breadth of India. Any new legislation is only justifiable if it legitimately

gives protection to a class without jeopardising the interests of other class. I assert that this legislation would bring into existence a new basis of class hatred and our unhappy land would be still more and more hopelessly divided. It is a well-known fact that this Act has proved a failure both in the Punjab and in the Bundelkhand. When this Bundelkhand Bill was discussed in the Council the Hon'ble Mr. Roberts, Member of the Board of Revenue, Hon'ble Pandit Madan Mohan Malviya, Hon'ble Babu Sri Ram and my father Hon'ble Rai Nilal Chand opposed the Bill and I would like to quote the opinion of Hon'ble Mr. Robert here. Mr. Robert said: The justification in the present circumstance is the careless, easy going, thriftless habits of the agricultural tribes of Bundelkhand." Again he says: "The benefit to the zamindars which this Bill is indicated to secure is that at all events however thriftless they may be the land with their diminished proprietary interest in it cannot be permanently alienated and that after a period of twenty years at the outside it will come back to them unencumbered whatever debts they may have incurred." He goes on to say: "That unless he turns round and cheats his creditor almost his first act on coming into possession will be to create a fresh mortgage and so old wrong will commence again." Again he says: "It is conceivable that some may take advantage of the law and cheat their creditors, but this will be a very temporary advantage. Such a man's personal credit is gone for ever. As soon as need arises for him to borrow money and on the hypothesis of his thriftlessness and untrustworthiness which will soon arise, he will have to mortgage his property on very disadvantageous terms." Again he says: "The danger that under the existing state of things the proprietary interest in Bundelkhand will pass into the hands of money-lenders seems to me to be much exaggerated. Money-lenders no doubt desire to become to a certain extent landed proprietors and they do not make worst proprietors than thriftless zamindars." He further goes on to say: "There are not statistics before us to show that an excessive amount of land has passed into the proprietorship of professional money-lending classes in Bundelkhand and it is not the case in any district with which I am acquainted." These are the remarks of Mr. Roberts.

Pandit Madan Mohan Malviya says "I regret to say that having given my best consideration to the matter, I find myself still unable to give my assent to that proposal." He goes on to say: "Honourable Mr. Roberts entertained such grave doubts regarding the soundness of the measure before the Council."

Sir, I have got the reports on the working of the Bundelkhand Alienation Act from 1903 to 1908. I am sorry I could not get the later edition. I asked Mr. Wajahat Husain to supply me, but he could not furnish me with that. Here the report says: "From the Banda and Jalaun districts specific instances are given of the diversion from investments in loans of the capital to agriculturists to grain and cotton business, so that the capital available for agriculturist borrowers is to that

extent reduced." Taqavi may be more popular than before under the improved conditions governing its issue and recovery, but it is by no means proved that it is more necessary. One Collector only makes a guarded suggestion that a great demand during the past year was possibly stimulated by the restrictions of the Act. It is stated that that in one or two districts the zamindars complain of increased difficulty in raising loans, but in other districts the Collectors state that the real difficulty is not greater than before." About the popular reception of the Bill the report says: "The popularity of the Act cannot be gauged by the experience of the year. Those for whose benefit it is intended are not yet in a position to realize fully the restrictions to which they are subject and the money-lending to non-agriculturists naturally do not like it though any time they may appreciate investments in industrial and commercial undertakings more than their former transactions in land."

Far more restrictions are placed on money-lending when money is scarce. The result will be either flow of capital will stop or agriculturists would begin to lend to their less fortunate brethren and it would be a case of the bigger fish swallowing the smaller fish, because the interest charged by these would be much greater than charged by the money-lenders at present, for they would practically be enjoying a sort of monopoly. Moreover the landlords would be like occupancy tenants. They would be the owners of land simply to collect rents without any power of transferable rights, as the occupancy tenant enjoys all the privileges of his holdings but cannot transfer them. Therefore I request the House to reject this measure.

Maulvi Fasih-ud-din: I give my wholehearted support to this resolution. I am not at all surprised at the speech which has just been delivered by a leading zamindar and a leading banker of these Provinces, who sees everything with coloured glasses. He has said that Bundelkhand is a famine stricken division and that the Kohilkhand division and other divisions to which the Act is proposed to be extended are very prosperous and do not require the Land Alienation Act. He has followed the example of his father in opposing this resolution as the Persian proverb goes;

"میراث پدر خواہی علم پدر آموز"

"If you want to inherit the property of your father you must follow the profession of your father." Sir, I draw his attention to the fact that the Banking Enquiry Committee reports that the condition of zamindars in the United Provinces is simply pitiable. It says that the hereditary property is fast passing away into the hands of those who do not know anything about cultivation or about zamindari affairs with the result that the conditions in the rural areas are becoming worse and worse every day, and that those people in whose hands these properties are passing are treating their zamindari as a simply and purely financial concern. They consider it their duty to squeeze as much money as possible from the tenants without any element of sympathy for them. This state of affairs ought to lead every lover of this country, every patriot, to

support a measure of this kind. If he is not satisfied with this result of the enquiry of the United Provinces Banking Enquiry Committee, he ought to look into the various reports of the recent assessments, including the report of the Budaun district. In Budaun Mr. Waugh was ordered by the Board of Revenue to make a special enquiry into the indebtedness of the agriculturist, viz., the landowners and the tenants, and Mr. Waugh came to the conclusion that every one acre of land in Budaun was indebted to the extent of Rs. 12. He also gives figures showing how the zamindars were being involved every day in debts and how classes and communities who have no right to become zamindars are getting hold of the land from the ancestral proprietors. If he is not even satisfied with these reports he ought to look into the various revenue administration reports which are published from year to year and which show that properties paying land revenue of lakhs and lakhs of rupees are passing away from the hands of the hereditary proprietors to the hands of those who have absolutely no concern with the zamindars. All these facts go to prove that a measure of this kind is a necessary measure and that it has been rather overdelayed. For this reason I think that if we at all want to save the proprietors of the land of these Provinces from further ruin and their total annihilation, we ought to lose no time in passing an Act like this.

Dr. Dubey: One of the proposals recommended as a measure of relief to agriculturists is the extension of a modified form of Land Alienation Act provisions, to the Meerut, Agra and Rohilkhand divisions, with power to the Government to extend them to any other local area. These provisions prohibit all sales of land in the future whether ordered by courts or arranged on a voluntary basis (except when it is done with the previous permission of the Collector). There are grave objections to such a piece of legislation.

Such an Act was first passed in the Punjab in 1900. Many competent authorities now doubt whether it has achieved the economic object it was intended to do. For instance according to the Punjab Land Administration Manual "the measures that were adopted by the Government to prevent the intrusion of aliens into village communities by the purchase of land were held by some of the ablest officers to be open to the reproach of economic unsoundness on the ground that the prospect of agricultural improvement by the attraction to the soil of the capital of the monied classes was being sacrificed to the paramount necessity of political stability. It was recognized that an unlimited power of alienation of land was an essential feature of proprietary right and a necessity of economic progress."

On pages 174-6 of their Report, the Central Banking Enquiry Committee have discussed the effects of the introduction of such provisions in the Punjab, Central Provinces, Bundelkhand and some Centrally Administered areas. They are not at all enthusiastic about the virtues of these provisions, and on the other hand, positively urge for their modification.

It is clear from their observations that wherever restrictions on the alienation of landed

property have been imposed, credit has been reduced and land values have fallen. Though wasteful borrowing has been partially curtailed, the rates of interest charged by money-lenders have risen, and a new class of agriculturist money-lender has come into being who has thrived at the expense of his smaller brethren and sought to make more investments in the purchase of land rather than in introducing land improvements. The necessity of protecting the small peasants has been felt. Such Acts have perpetuated the backwardness of the protected classes. The report observes "Where land is transferable without any legal or customary impediments it will naturally form a valid security, but when the policy of the State has placed impediments against such transfers, the credit of the cultivators is adversely affected." On pages 707-8, the foreign experts of the Banking Committee comment much more strongly on the existing practice of placing restrictions on the free transferability of land.

According to another competent authority, Mr. Darling of the Punjab "the time has come to consider whether the Act should not be amended". He thinks that Land Alienation Act "incidentally illustrates how difficult it is to cure economic evils by legislation." The author goes on: "In the Punjab the Land Alienation Act was passed to remedy the evil; but men cannot be saved by Act of Parliament, and something else was needed to free the cultivator from his bondage and to replace the village community which had partially protected him in the past." He points out that rural indebtedness had increased in the Punjab by Rs. 16 crores from 1893 to 1902, by 9 crores from 1903 to 1912 and by Rs. 30 crores from 1913 to 1922. The Punjab Banking Committee now reports that it increased by no less than Rs. 45 crores from 1921 to 1929. These figures show that the Punjab Act could not decrease rural indebtedness although it has been in operation since the year 1900.

As regards the protection of ancestral lands in the United Provinces, the case for placing restrictions on the free alienation of land rests on the following theories:—

- (a) that the old landowning families on the whole understand a landlord's duties better than an outsider;
- (b) that it is easier for them to maintain loyal and friendly relations with their tenants than a newcomer can do;
- (c) that they are more congenial to the existing members of the landed class; and finally
- (d) that landlords as a class desire to be protected in their existing possession from intrusion.

Before I meet these arguments, I would submit the following two extracts for the consideration of our Committee from the Report of the United Provinces Provincial Banking Enquiry Committee which was presided over by the distinguished president of our own committee, who is unfortunately absent today. Discussing the land alienation provisions, the committee observe on page

205 of their Report: We are not prepared to go so far as to recommend its repeal though some of us are inclined to suggest that the possibility of repealing it be examined. On the other hand we are certainly not prepared to recommend its extension to any other part of the province." Again they observe on page 207: "In short we hold strongly that there is no case for introducing a Land Alienation Act in any other part of the province. It is not warranted by the figures of transfer between agriculturists and non-agriculturists, and in the circumstances of the province it would have most undesirable and even dangerous results."

The committee reported less than two years ago. What is the new material in the light of which it is now proposed to reverse these decisions?

This brings me to the four points mentioned on the previous page.

(a) I think the assumption is wrong that the old landowning families understand a landlord's duties better than an outsider. "The large landowner", says a District Officer of this province "has in this country more than in any with which I am acquainted failed to justify his existence."

Mr. Habib-ullah: Was he an Irish man?

Dr. Dubey: I have no idea: you will listen to Englishmen also.

"The history of nearly every large estate is a series of rakes' progresses suspended and renewed in every generation by a period of Court of Wards Administration." I do not think that by any stretch of imagination the present landlords could be said to be understanding their duties well. While in all other countries the equipment of land has progressed so much, in India the agricultural industry continues on much the same lines as before in the absence of any initiative, pioneering work or readiness of zamindars to invest capital in the land.

Chairman: You have got to the end of your ten minutes.

Dr. Dubey: I never knew that, Sir.

Chairman: I said this at the very beginning.

Mr. Brijnandan Lal: It is interesting. We would like to hear it all.

Dr. Dubey: Although a respectable proportion of what the state receives out of the rental income of the landlords, goes back to the land in one form or another, practically next to nothing is restored to the soil out of the landlord's share.

(b) As regards the ability of the old landlords to maintain loyal and friendly relations with their tenants, I would submit that the existence of the various Tenancy and Rent Acts is a solid proof of the fact that they are as much governed by considerations of self-interest, enlightened or narrow—as any other class of persons. If past figures of litigation can be an index to the relations between the landlords and their tenants, I find that the existing landlords who number about 3.3 lakhs, filed nearly 6 lakh suits against their tenants

in 1922-23, about 7 lakhs in 1923-24, over 5½ lakhs in 1924-25, over 4½ lakhs in 1925-26 and a similar number in the following year: When I worked out detailed figures for several years from the Land Revenue Administration Reports, I came to a very remarkable conclusion, namely; that landlords are more litigious in the particular divisions where they are being sought to be perpetuated (Rohilkhand, Meerut and Agra) than in the rest of the province generally. It is interesting to recall what the Blunt Committee recorded on this point: "The landlord who is dispossessed generally belongs to one of the higher castes whose degradation is due entirely to his own extravagance, and deserves little sympathy on that account. He is always himself a poor cultivator, and as often as not a bad landlord. The non-agricultural purchaser could scarcely be a worse, and in practice is very often a much better landlord." At another place they say: "We repeat that the exchange of a non-agricultural for an agricultural landlord generally, perhaps more often than not, means a substitution of a good for bad landlord."

(c) I do not think there is much force or truth in the argument that the present landlords are more congenial to the existing members of the landlord classes. A competitor is always a sore in the eyes of one who is well-entrenched in a comfortable position.

(d) But the most fantastic argument is that landlords as a class desire to be protected in their possession from intrusion. Suppose money-lenders put forward a claim tomorrow that legislation should be undertaken by the state to prevent the growth of the alternative sources of the supply of credit, will such a demand be conceded? Protection is granted to an industry if it makes out a case, not merely on the demand of vested interests. Vested interests sometimes base their demand on very narrow considerations. For instance the Collector of Saharanpur wrote to the Commissioner of Meerut division.

Chairman: I do not think it is very desirable to quote personal opinions. These opinions are not intended to be quoted. These opinions might go into the Press. You may say certain individual and not name that individual. If you leave out the names, I have no objection.

Dr. Dubey: Very well, I will not mention the names. A Collector said "I have not been able to obtain information of any value from conversations with zamindars as the local zamindars also have no experience or knowledge of the Act (Land Alienation), and the replies they give to questions on the subject depend merely on whether they are indebted or not." It would hardly be fair to meet the demand of the landlords when their object is only to expropriate their creditors. The remarks of the foreign banking experts are very trenchant on the point. Discussing the Punjab Land Alienation Act and other restrictions on the free transfer of property, they say: "Many laws have been framed to save the debtors from the money-lenders. It is not inconceivable that this may be one of the reasons why money-lenders are forced to charge what would appear to be excessive rates of

interest. Where undue protection is given to the unscrupulous borrower, the psychological effect must be harmful. The great majority of borrowers are honest people intending, if possible, to pay their debts. By the introduction of safeguards this class suffers. A high standard of business integrity can never be fostered by protecting the rogue. We suggest that the time is ripe for an examination by competent authorities of existing laws. We are not satisfied that they are working to the advantage of the country as a whole." (Page 708, Central Banking Enquiry Committee Report.)

The arguments put forward in the note are therefore very weak. They do not stand examination. On general economic grounds too, I am opposed to anything in the nature of a Land Alienation Act for the United Provinces or any part thereof. The conditions are dissimilar in the Punjab and the United Provinces. Another Collector writes in his note "In the Punjab the problem of debt has been treated almost entirely with respect to the zamindar and this in itself makes the Punjab Act a dangerous analogy in the United Provinces."

All agricultural land has twofold importance to the society: (a) on account of the produce that it yields, (b) on account of its value as a national asset. Actual cultivation of the greater portion of the land in the United Provinces is in the hands of the tenants. As the Collector puts in his note, "the peasant in the Punjab is the zamindar in United Provinces he is the occupancy tenant." In his opinion "in relation to agricultural progress the Act weakens those whom it protects."

Maulvi Muhammad Obaid-ur-Rahman Khan: On a point of order, Sir, May I know if a member is allowed to read a pamphlet? Some of us will also like to prepare a pamphlet tonight and tomorrow read it before the committee. It is a novel procedure.

Chairman: No doubt it is a novel procedure.

Dr. Dubey: If, therefore, society is interested in the better cultivation of land, there would appear to be a case for declaring the tenancy rights to be stronger and less encroachable than now, so that ownership may have as little influence on the agricultural operations of the privileged tenants as possible. Something of this sort was done by the amendment of the Punjab Land Alienation Act in 1907.

From the social point of view an asset should have increasing and not decreasing value. There is absolute unanimity among all shades of thought on the point that this measure will result in decreasing land values and bring about a contraction of credit. It will shake the confidence of the money-lender, who supplies the bulk of credit at the present time. Credit has already been contracted by 50 to 75 per cent. in many parts of the province and it is indeed a grave problem if we can afford to take any positive measures that will further contract it to smaller proportions. "The last thing that we can afford is the contraction of credit." That will create endless difficulties even in the collection of

land revenue and other State obligations. I endorse the view of another Collector, therefore, when he says in his note that it is "necessary to guard against the possibility that the money-lender may have reasonable ground for considering that any legislation that may be undertaken is unfair or amounts to expropriation. If he has reason to think that a zamindar council, guided as it is at present by officials, has made up its mind to treat him unfairly, he will be justly apprehensive of what will happen under provincial autonomy and begin to curtail agricultural credit at once. I consider it of the greatest importance that the spirit of 'down with the bania' which seems to have inspired a good deal of the Punjab legislation should be kept out of the present controversy in the United Provinces."

According to the United Provinces Banking Committee Report, 55 per cent. of the landlords are indebted and the remaining 45 per cent. are not. Right of sale is one of the most important incidents of ownership of property. If this is gone, everything will be gone, and all landlords—indebted or debt-free—will be reduced to the position of occupancy tenants who have heritable but not transferable rights. The British Government made land a transferable asset by their juridical system they will take away that right for all practical purposes if the proposed legislation prohibiting free sales is passed. The value of the mortgageable right will also be very little in actual practice when it would mean mere right of rent collection—by no means a pleasant job in these hard times—and not actual possession of land for cultivation as in the Punjab. It is just possible that such mortgages, wherever made, might actually mean greater oppression of the tenantry, and squeezing out as much from the latter as possible in the limited mortgage period.

It is just possible that at the moment many indebted landlords will be swayed by the consideration that the proposed piece of legislation will virtually make them debt-free by one stroke of the legislature and release their estates of all the existing encumbrances, but when they come to their own they will realize that perhaps a repayable debt was wiped out at the expense of their very right of ownership.

Most of the existing debts of the landowners are due to extravagance. They are not strictly agricultural debts. It will be unfair to the existing creditors who loaned out money on the basis of existing conditions, if undue protection is thus given to the borrower who did not render any service by his expenditure either to the State, to the community, his land, his tenants, or even to himself. If any particular community is suspected of encouraging the no-rent campaign, it will recoil on them if free transfers of land are made in their favour. As some communities appear to be more heavily indebted than others, the proposed legislation will become in the nature of class legislation.

Perpetuation of the existing landlords will lead to the absolute stagnation of the agricultural industry. Such restrictions on free

sales will be undemocratic in character. In no other country in the world can landlord be maintained as a separate interest on the land and nowhere is he so dependent upon the produce of the land as in India, without making an effective contribution towards its better exploitation. He has not at all adapted himself to changed conditions. He neither develops his asset nor takes to some alternative professions to earn a livelihood. This brings him into debt. If now he wants to be entrenched in a secure position, this is nothing short of a "dog in the manger policy". At a time when we are faced with an acute competition in the field of agricultural production with those who have already capitalised and mechanised their agriculture, when large amounts of capital are required to be attracted to make use of hydro-electric energy in agriculture successful, when we are on the threshold of an era of the development of big sugar estates, with the prospect of cultivation, extraction and refinement of sugar on modern lines, it will indeed be a calamity if prospective sellers of landed property and incoming capitalists are thus disabled by the proposed legislation of a restrictive character. Such spoonfeeding of the landlord will only stave off his collapse till a really democratic constitution comes into being.

If, however, the State thinks that on administrative grounds it is expedient to secure the protection of ancestral landed property, a wider and more effective use can be made of the existing weapons in the armoury of the Government. Under Hindu law it is difficult to part with ancestral property, while the Waqf Act empowers a Muslim practically to entail his property. There are settled Estates Acts both for Agra and Oudh which can protect old zamindaris. Similarly the Court of Wards Act can also fulfil the same purpose. It is remarkable that the proposals give protection to those who hold land since 1886 and not to those who are at present owner cultivators. I think the latter class has deserved much more of the State than the extravagant aristocracy.

Under these circumstances, I irresistibly agree with the recommendation of the Blunt Committee when they say: "In such circumstances we cannot regard ourselves as justified in recommending an extension of the Bundelkhand Land Alienation Act to the whole or any other part of the province. So far as the transfers have been to agriculturist purchasers, the change was almost certainly for the better. So far as the transfers were to non-agriculturist purchasers the change was not necessarily for the worse. Considering all the circumstances, there may be, we think, cause for a further and fuller inquiry with the object of obtaining later and more complete figures. But beyond that we are not prepared to go."

I entirely endorse the remarks of the Blunt Committee in this statement.

Chairman: I hope this will not be a precedent. If a pamphlet is prepared, it will simply be included in the proceedings. I allow ten minutes for each member to speak, but in deference to the wishes of the members

of the committee I have allowed Dr. Dubo to go on. But I hope it will not be a precedent.

Mr. Habib-ullah: I wonder if there is any thesis to be read here.

Chairman: I have already said that I do not want such things to be repeated again.

Mr. Habib-ullah: I have heard the mover of the resolution who is a true successor of the gentleman whose son he is and he has truly stood up to oppose the resolution. I am very sorry for him that he has acted on what may now be treated as an ancient history. Those conditions which existed in the time of his father do no longer exist. We have heard from him only today and the day before the depressed state of the agriculturists in his own division and in his own district, but when he comes to compare it with the Bohilkhand he gives a most vivid and prosperous picture of his district and concludes by saying that a measure which is good in Bundelkhand is no good in the Muzaffarnagar district. Now, Sir, we have got to deal with facts. Let us see what has been the effect of the Land Alienation Acts both in the Punjab and in the Bundelkhand. Now, Sir, my friend wanted to read but he did not know that what he was reading was against himself. He read some extracts from the report of the Collector who said that the people did not realize the effect of the Land Alienation Act and I think I may gladly repeat that my friend who has stood up to criticize it does not at the present moment realize what is going to be the effect of this measure if it is passed into law.

The reasons which our learned Doctor has advanced in his thesis are such that his thesis may be sent for a D.Sc. degree to a University like that of Cambridge or Oxford.

Dr. Dubey: Thank you for the suggestion.

Mr. Habib-ullah: But, Sir, to us as practical men of business it is not of much value. I do not think many of us could follow it. It is so learned.

Mr. Brijnandan Lal: Not his fault.

Mr. Habib-ullah: Yes, I think, it is not his. It is ours. Land Alienation Act will go against the flow of capital and will go to the contraction of credit. It is the sum and substance of the whole thesis which my friend has read. Now I do not understand if by introducing a measure for the protection of the old land owning hereditary classes this will be the result. My friend has quoted from the speeches of various other economists on this subject with which I cannot agree, because they are against what I see in everyday life. They are mere theories and theories of this kind are very often misleading. We want something practical, and we have seen that a measure of this kind has had a very good effect for the protection of the peasant proprietors and small landholders in the Punjab and it is having an excellent effect in the Bundelkhand. I think it is a measure really in which the people to whom it refers should have a more effective say than mere theorists

or politicians. It is the zamindar and agriculturists whose voice should predominate. I am sorry that the mover of this resolution, for whom I have every respect and whom I always considered to be a pioneer of the interests of the zamindars, has spoken today—I do not know if the remarks made by my friend Khan Bahadur Maulvi Fasih-ud-din Sahib are correct—as a banking landowner. I have always treated him as a pioneer of landowners. But it now seems that in his mind the interest of the banker predominates and not of the landowner. Of course I will depend on his attitude in the matter.

Lala Anand Sarup: I am both, Sir, money-lender as well as zamindar.

Mr. Habib-ullah: I think a landowning banker is a more dangerous element for a tenant than a banker himself. I have never seen really any tenantry in these provinces prospering under a banking landowner, but I hope my friend is an exception.

Lala Anand Sarup: I do not do banking with my tenants.

Babu Madhusudan Dayal: May I know a concrete instance?

Mr. Habib-ullah: There are hundreds and thousands of hereditary zamindaris which have passed on to the hands of the bankers, and they are always treated by us as something different by their habits, by their customs and by their inclinations to the old landowning classes who are supposed to understand their tenants better than the bankers, whose real interest is to squeeze the tenants and not their protection.

Lala Anand Sarup: I understand my tenants better.

Babu Madhusudan Dayal: Question.

Mr. Habib-ullah: Now, Sir, I come to the crux of the matter. I think really we have had a very long discussion over this and while we were discussing the details most of our friends here have expressed their clear and distinct opinion that they are in favour of this Alienation Act and they think that a measure of this kind is necessary and they have been very anxious in introducing it, and that it should apply in the beginning to a smaller area and after its practicability is proved then the extension of this legislation may be considered as regards its introduction in other parts of the province. For these reasons I strongly support the measure.

Hafiz Fidayat Husain: I just want to confine myself to a point or two. I do not want to follow my friend when he travelled from Bundelkhand to South Africa, nor have I got any manuscript eloquence to inflict upon this committee. There is one point that has struck me most as Dr. Dubey was speaking, and that was this: If there is restriction of alienation then there would certainly be curtailment of capital for the purpose of helping alienation. Now my point with regard to this proposition is simply this that we have got before us the Land Alienation of the Punjab and Land Alienation of Bundelkhand. You have got more experience of Bundelkhand than I have. But reading from the reports both from the Punjab and also Bundelkhand I do

not think that the zamindars of these three divisions would be relegated to the position of occupancy tenants on which stress has been led by my friend on my right and by Dr. Dubey. May I ask if they think that occupancy tenancy is a curse and that no tenant should be allowed occupancy tenancy or do they think that occupancy tenure has conferred certain blessing on the tenantry of these provinces and that they have been protected in their holdings on account of restrictions placed on the powers of alienation that we are giving to them by the Act of 1859? Well, Sir, if this analogy is correct, my submission is that more we restrict the power of landlords in the matters of restriction of alienation the better it would be in order to keep the ancestral owners of land in possession. Now there is a further point that I wanted to ask. My friend Mr. Habib-ullah has said that we as practical men ought to assemble here for the purpose of deducing conclusions that would be practicable from the premises supplied to us. I would say in other words we ought to descend from the dizzy heights of theories and figures and just touch the solid ground of facts and realities. What are the realities? I have got sufficient knowledge of Bundelkhand as well as the Punjab. I find that this Act has held many of the landlords both in Bundelkhand and in the Punjab in possession of their lands and the Collectors have been careful enough to see that within a certain period their mortgaged money was paid off and that they were safe and secure on their own lands. My submission is that if these facts prove as they do prove that a certain sort of alienation is needed in these three divisions to begin with, my submission is that advantage should be taken of analogies that we find in the Punjab and also in Bundelkhand and we should enforce this Act as soon as possible. A further point was made out by Dr. Dubey and I think this is the nightmare that has been obsessing the minds of those who have not had anything to do with land so far. They say zamindar is an indolent creature, his purpose is only to realize so much rent and pay so much revenue, ride elephants and drive in motor cars and so on. Now, Sir, people who have got to do anything with land and those who deal with their tenantry knew how helpful undoubtedly zamindar is always to his tenants. It is not his function alone to realize rent. Can any figures be cited to show that land that has passed from the hands of the original landlords into the hands of those who were not related to land before had been as considerate to their tenants as those ancestral landlords have been. My submission is that if a census of this kind were taken we will find that ancestral landlords had been very much helpful than others who have got absolutely no knowledge of things relating to land. Then another point was made out that in Muhammadan Law we have got the waqf by which you tie the land, and in Hindu Law a joint family cannot alienate land. Then you have got the Settled Estates Act and after that you have got the Court of Wards Act. Now we ought to know what happens when these Acts come into operation. Waqf is not a transaction. It can only be applied when a man is inclined to tie his property in such a way that it will not

pass to any other person. But here things are quite different. Waqf relates to every sort of property and under the Hindu Law it is not that no property can be alienated. Property can be alienated even by a widow if there is legal necessity for it. Therefore the *karta* of a Hindu family can do it if there is necessity for the purposes that are considered to be lawful. Considering all these facts when you have got the whole scheme which is going to help the tenantry, which is going to help agricultural classes, my submission is that if you do not pass this Bill then all your measures will remain absolutely infructuous and no purpose whatever will be served by the previous resolutions that we have passed. It appears to me that you seem to be anxious to keep people on their lands and on their holdings and still you adopt no steps in order to keep them on their lands. I think it is most essential that the ancestral landlords should be preserved in their holdings.

Pandit Shree Sadayatan Pande : I move for closure.

Dr. Mukerjee : Before you put this resolution to vote, I would remind you that you observed that when there are differences of opinion on essential points, when the issues are very important, members, who may be in the minority, would be permitted to write notes of dissent, along with the proceedings. In my case I want to modify the restriction and I may or may not vote against the restriction in a general form.

Chairman : I am quite pleased to have any written thesis by any members.

Dr. Mukerjee : Not a thesis but a definite minute of dissent.

Chairman : I will include that in the proceedings.

Mr. Brijnandan Lal : May I know how many speeches there have been for and against the resolution ?

Chairman : As regards the length of time—the opposition would carry the day.

(Resolution no. XI was put and carried.)

(The committee adjourned at 5 p.m. till 11 a.m. tomorrow.)

The Agricultural Debt Committee met at Brookhill Lodge on Monday, July 4, 1932, at 11 a.m. with Mr. Knox in the chair.

RESOLUTION XII.

Chairman : We now come to resolution no. XII.

Dr. Mukerjee : I suggest that resolution no. XII be taken up when we deal with the Land Mortgage Bank because it is putting the cart before the horse and also because when we deal with the Land Mortgage Bank we have a resolution on the same subject.

Chairman : I do not know. I think the question as to whether there can be mortgage, can be settled without reference to the Land Mortgage Bank. All this only causes delay.

Mr. Wajahat Husain read out the following resolution :—

“That occupancy tenants should be given the right to mortgage their holdings

to land mortgage or other banks established under the Co-operative Societies Act provided that in the case of foreclosure the bank must vacate the holding after a period of five years from the date of occupation after the foreclosure.”

Dr. Mukerjee : In proposing this resolution I would like to point out—

Chairman : Let us have your amendment first if you are going to move it.

Dr. Mukerjee : My amendment is this :—

“That ex-proprietary and occupancy tenants should be granted the rights of mortgage and sale in favour of and through a district land mortgage society or a co-operative credit society provided that in case of sale the society pays to the zamindar a *naasina* amounting to 15 per cent. of the purchase money.”

Sir, there has been felt the need of providing facilities for long term credit to both zamindars as well as tenants. We are proposing to establish a Land Mortgage Bank as a provincial institution with its feeder institutions, the district land mortgage societies, in almost every district if circumstances are favourable. Now the difference between the co-operative society and the land mortgage bank in so far as they deal in credit is that while the co-operative societies deal in short term loans mortgage banks deal in long term loans which are necessary for the permanent improvement of the land. By providing long term loans the district land mortgage society may be in danger in this way that the small holder or tenant is not able to pay back, the land mortgage bank is faced with the risk of being responsible for scattered estates round about the villages which they have to manage for themselves. To saddle a district land mortgage society with the task of land management would be courting disaster. That is why I am suggesting that if we want to make a district land mortgage society successful and we want to make it successful in order that we may have permanent improvements in land, we ought not to burden such a society with the risk of managing the small holdings of ex-proprietary and occupancy tenants when they fail to redeem their debts. In no country in the world does a land mortgage bank face this task, viz. of actual land management which our land mortgage society would have to undertake if we do not have a provision like this. According to the resolution when a tenant fails to redeem his debt his land mortgage society has to manage the holding. Now since direct management would be impossible, if not actually disastrous, a resolution like this would be the only way to help towards the successful establishment of land mortgage banks in this province.

Mr. Sah : I second the amendment.

Mr. Madhusudan Dayal : Unfortunately I have to oppose my friend, the Doctor from

Lucknow. On the last occasion he was advocating free land to be provided under the Land Alienation Act and now he wants to allow the ex-proprietary and occupancy rights to the ex-proprietary tenants as well as for those living at home and having other people to cultivate for them. These two provisions are quite contradictory. I do not understand for what reason it is being proposed, unless it is for improving the land of the occupancy or ex-proprietary tenant. For the present we are just thinking of liquidating the debts of the cultivator and for the future we should make him an economic cultivator rather than a spend-thrift cultivator, and after two or three years or at most when we pass the Act for the relief the agriculturist, which may take not more than five years to relieve him of all his debts, whatever money he can get on his land would be his own money and he must put it in the land rather than for any other purpose. We should teach him thrift rather than extravagance and if my Doctor friend proposes that any money that they can get, should be utilised towards the improvement of the land then it is quite a different thing. There are no such points in his amendment. I may not be opposed to mortgaging the rights of the occupancy or the ex-proprietary tenants but I am against selling those rights. It was in the Act of 1891 that they had such rights and it is not a good thing that we should want to take away the rights of the zamindars to sell their property. Thus the occupancy tenants and ex-proprietary tenants might be selling their rights to any bank, whether it be a Government land mortgage bank or anyone else. So on this ground I oppose the amendment.

Mr. Habib-ullah: I also strongly oppose this amendment and wish to say just a few words. Dr. Mukerjee in his usual fashion has brought up this resolution, which means the power of sale and transfer of ex-proprietary and occupancy tenants be given to the tenants but the way he has put this resolution is absolutely ridiculous, that in the event of the sale, the landholder should only get 15 per cent. of the purchase money. Well, I do not think things have come to that pass that our proprietary rights in land can be sold at 15 per cent.

Babu Awadh Bihari Lal: It is the occupancy rights.

Chairman: The zamindar would still remain proprietor and he would get a bit of *nasrana*, and the occupancy rights would pass to another man or the bank could sell it to somebody else and somebody else would become an occupancy tenant. At present that is impossible without the zamindar's consent.

Mr. Habib-ullah: There is no question of zamindars' consent.

Chairman: The zamindar could consent to the whole proposition and make it legal. The occupancy tenant could resign and agree to a sale of occupancy rights to somebody else. There is no proposal to turn him out as proprietor.

Dr. Mukerjee: It is absolutely harmless.

Mr. Habib-ullah: It is as harmful as one can imagine. It is most injurious and harm-

ful. Besides the zamindar at the present moment when his occupancy tenant is in default or neglects the land somehow or the other, he has got full power to settle that land. If a man is in arrears his land is sold to a bank and the bank gives it to another person who has got the sole rights. So you are taking away the zamindar's right in two ways. The second point is this, if the occupancy tenant is in arrears and under the court decree he does not pay the rent and he is ejected, or if he dies heirless, the land comes to the zamindar. I think the zamindar loses in both ways and therefore the amendment is absolutely futile and should be rejected. In fact I reserve my right of accepting or rejecting the resolution as it stands.

Hafiz Hidayat Husain: The first amendment moved by Dr. Mukerjee is not one which can have any intrinsic worth and therefore it cannot be supported for the reason, firstly, that when the Tenancy Act, 1926 was passed, as far as I remember, 7 per cent. of the entire holding in the province was non-occupancy tenure and about 20 per cent, I think, of the entire holding was held by the tenants under 7 years' lease. Now the zamindar element of the Council in 1926 in order to come into line with the Oudh Tenancy Act introduced what is called statutory tenancy. Now that was the *raison d'être* for the creation of statutory tenancy so that there would be some sort of fixity of tenure for the person who is on the holding for some little time and therefore as a substitute for 7 years' lease and also as a concession to the tenants the zamindar element agreed to the grant of statutory tenancy. Now after all what is statutory tenancy? Under the name of statutory tenancy we have taken away absolutely the rights of the zamindars as far as ownership in the particular land was concerned. That is to say a tenant has been given certain powers. Now it is sought by the amendment of Dr. Mukerjee to make him the proprietor of the land. I do not think this will be either just or equitable. The reason why in the sub-committee no. 1 this resolution was passed was that suppose an occupancy tenant, who has got indefeasible rights in the holdings is hard up on account of some extravagance and he has to borrow, and is not able to get money either from the *bania* or zamindar, then he can go to the land mortgage bank and have his holding mortgaged to the bank with the condition that the bank will remain in possession only for five years and after that that land will revert to the tenant. Therefore my submission is that even according to the resolution of sub-committee no. 1 what was thought to be ownership of the proprietary or tenant right of the tenant himself, will not be disturbed by these proceedings. Under the amendment as moved by Dr. Mukerjee it is sought that absolute power be given to the tenant to sell or to mortgage his holding. Thus you are going to deprive the zamindar of his rights in the land which is his and which should not be alienated without his consent or without his option. Of course the statutory tenant has got a right to go to the zamindar and purchase tenancy rights. This he can do and this has been allowed to the statutory tenant as a matter of option and

also a matter of concession. I think to go any further at this stage would be either unjust or unsafe.

Lala Anand Sarup: I wanted to say that this matter was freely discussed in sub-committee no. 3 in which Dr. Mukerjee was present and after due consideration it was resolved that we adopt this resolution that necessary legislation be undertaken for permitting ex-proprietary and occupancy tenants to mortgage their holdings to the land mortgage societies for a period not exceeding 25 years, the latter having the right to sub-let the holding; and giving effect to the recommendation for establishment of a land mortgage bank, if necessary. So I oppose this resolution.

Dr. Mukerjee: Sir, I have been grievously misunderstood, but I am not surprised as I see vested interests of landlords and money-lenders entrenched behind resolutions and amendments irrespective of their intrinsic worth. It is true that this resolution was discussed in sub-committee but I can assure this committee that every one of the members of the sub-committee liked this resolution but they did not want to anger vested interests. That is why they did not have the prudence, shall I say the courage, to put forward a resolution like the one which has been my lot to place before you. It is not my intention to grant the right of transferability to all occupancy tenants. I have been completely misunderstood there. What I want is that the right of transferability should be given only to the microscopic minority of our tenants who happen to be members of the land mortgage banks which may be established in this province. The right of transferability is regarded as absolutely indispensable only in very extreme cases because land mortgage banks will provide long term credit for permanent land improvement, and it will be very seldom that the occupancy tenant will have any irrecoverable debts, and the banks have to go in for foreclosure. Now if such a situation arises, my point of view is this, do not saddle a land mortgage bank with the responsibility of managing the small and scattered strips of land here and there. That will be courting absolute ruin for a land mortgage bank because a land mortgage bank is a bank and not an estate management agency. That is why I plead that in these special cases of occupancy tenants and ex-proprietary tenants who happen to be members of the land mortgage banks, and who happen also to be defaulters, the zamindar should give his consent to transfer. The zamindar's proprietary status will be there, the new purchaser will still be a tenant of the zamindar paying his due rent. What is wanted is this that the new purchaser will obtain a legal status by giving the zamindar a portion of the purchase money. I would remind you that in Bengal where transferability of occupancy tenant has been given, the proportion of purchase money has been fixed at 15 per cent. I would not go further into this question, but I should say that if you want to safeguard the future of the land mortgage bank, in this province do agree to an amendment like this.

Chairman: I shall now put Dr. Mukerjee's amendment.

(The amendment was put and lost.)

Now we come to the resolution itself.

Mr. Sah: Before this resolution is further discussed I want to point out that there is a conflict between this resolution and no. III passed by sub-committee no. 3.

Chairman: I cannot help that Mr. Sah. You have merely got to express your opinion on this resolution, and it will be the business of the draftsman to put that right. I do not think I have authority to make any alterations. If anybody wants to discuss this resolution, I am prepared to have speeches on it otherwise I will put it to the vote.

Gentlemen, I now put this resolution no. XII.

(The resolution was carried.)

I now come to resolution no. XIII.

"That a co-tenant should be given power to mortgage or sell his right in a holding to his co-tenant in that holding."

I do not think there are any amendments to that.

Lala Anand Sarup: It is already in section 23 of the Agra Tenancy Act that a co-sharer can transfer his rights. We do not want to give any more prominence to this section.

Chairman: In that case it merely refers to Oudh. It would merely be giving the same powers in Oudh that at present exist in Agra. The sub-committee's recommendation would have effect in Oudh.

Maulvi Fasih-ud-din: I want to add the words "with the consent of the zamindar" and that is now in the law, so we will be over-riding the law if we were not to put in this addition. That I think will be very necessary, otherwise there will be confusion and a zamindar will not be able to know anything about these transfers.

Chairman: There is nothing about consent of a landlord in section 23.

Maulvi Muhammad Obaidur-Rahman Khan: There is a proviso in this section. If it is also put there, I think there should be no objection.

Chairman: Well, you would have to put in a definite amendment. The only thing I would draw the attention of members is that there is no attempt being made to put this into legal language. If there had been the resolutions would have been even more difficult and more lengthy than many of them already are. All that would be for the draftsman of the Government and the Council to do.

Maulvi Fasih-ud-din: I sent in my amendment long ago about this very resolution. I suggest that the words "with the consent of the landholder" be added.

Mr. Wajahat Husain: I have not received anything from the Khan Bahadur Sahib.

Chairman: If you wish to move a definite amendment, you may do so.

Maulvi Fasih-ud-din: I propose to add at the end of the resolution "provided that the sanction of the landholder is taken to the mortgage or transfer."

Maulvi Muhammad Obaidur-Rahman Khan : I second it.

Mr. Sah : I oppose this amendment. At the present time a tenant can simply give a lease of his holding and then the holder of that lease can sell it to another person whether a tenant or not. He cannot grant the occupancy rights. The zamindar can confer the rights of a tenant on any other person whether he is a co-tenant or a tenant. If this amendment is accepted, what will be the use of having the right at all.

Dr. Dubey : Sir, I want to defend the original proposition and oppose the amendment. All these resolutions which are intended to give additional rights to the tenants were moved by a landlord member who himself came from Oudh. If certain tenants are enjoying certain kinds of powers I see no reason why the zamindars should put a spoke in their wheel and deprive them of their free power to mortgage or sell. I see no reason why the zamindars should be opposed to transfers or sale or mortgage between the co-sharers. For these reasons I oppose the amendment.

Mr. Brijnandan Lal : We are here to give relief to the agriculturists and not to curtail their rights. According to section 23 a co-sharer has a right to transfer or lease his holding in favour of a co-tenant. Now we want to introduce the consent of the zamindar. If under the guise of giving relief to the tenants, we curtail their rights, the committee ought to remember that there will be great discontent not only against this committee, but against the Government and we shall be giving an impetus to the movement that is afoot in the country. So I warn the committee against taking any steps which would curtail the existing rights of the tenants.

Maulvi Fasih-ud-din : I am sorry that my amendment has been so thoroughly misunderstood by the honourable members of this House. The fact of the matter is that under the existing law a tenant can lease out his holding without the consent of the zamindar. But that is quite a different matter. He can sub-let his holding without the consent of the zamindar, but no tenant can have his share divided if he has got other co-tenants without the consent of the zamindars. In other words, the tenancy cannot be split up. In the same way no tenant can transfer his right. Transfer does not mean inheritance. Of course for inheritance the consent of the zamindar is not needed but for giving one's rights to another tenant and surrendering his rights, the consent of the zamindar should certainly be needed and section 23 itself says that a tenancy cannot be transferred in execution of the decree or otherwise, without the consent of the zamindar. So it is very important. Now it has been said that the zamindar's interest will not be injured in any way. I submit, Sir, that it will be considerably injured if this provision remains without an embargo on it about the consent of the zamindar. It will be injured in this way: supposing there are three tenants in a holding, and one of them is a very inconvenient tenant and a regular defaulter and a person who is not at all

desirable from many points of view, both as regards the realization of rents and as regards other matters; the zamindar does not want him to appropriate the whole of the tenancy to the exclusion of the good tenants who are there and if he happens to persuade them to transfer his rights without the consent of the zamindar, I think the result will be injurious not only to the zamindar but to the state also. The zamindar has got vested rights in the land and the law defines those rights very specifically. So I submit, Sir, that when the consent of the zamindar is necessary in the case of a subdivision or holding which is a very minor thing, it should also be necessary in the case of a transfer to the co-tenant or mortgage to a tenant. Hitherto the law does not allow a co-tenant to mortgage his share in a holding to another co-tenant, nor does it allow him to transfer or sell his share in a joint tenancy to a co-tenant. Now this is a new provision. So I submit, Sir, that if this new right was to be given to a co-tenant, then it should be given with some restriction and the restriction that ought to be imposed is that it should be done with the consent of the zamindar.

Chairman : Well, the amendment before the House is that a proviso be added to the resolution "provided that the landlord's consent has been taken."

(Amendment lost.)

Now we come to the resolution itself.

Mr. Habib-ullah : I beg to oppose this resolution. I do not know in what circumstances such an absurd resolution has been suggested by the sub-committee. According to the law of Oudh all co-tenants are severally and jointly responsible for the payment of rent and there is no question of individual and separate right in a holding. Supposing there are four co-tenants of a holding and one-third of the rent has been paid we can eject every one of them on account of the arrears or if one or two co-tenants die, the one remaining *ipso facto* remains in possession of the holding. I do not know, Sir, what are the conditions prevailing in the Agra province but in Oudh it is very simple. So I cannot understand really the principle on which this resolution has been drafted. Supposing a fellow drops out, he does not cultivate, and the other man takes it up and begins to cultivate the land and pays rent to the zamindar, the zamindar cannot say that a third man has gone out therefore I am putting a third man in his place in your holding as your joint. So the one remaining in possession has always been *ipso facto* owner of the holding. I cannot understand under what circumstances this mortgage or sale is necessary. I do not know in what way this relief has been brought in and what relief will it give to them. It may be under the Agra province Act, but it cannot be under the Oudh Act. I say with all emphasis, if the law in this matter differs in Agra and Oudh, I think I would recommend that the same policy be followed as has been followed in the matter of revenue assessment, that this section should apply to Agra if there is a necessity for that. If the Agra zamindars want this, I do not want to oppose it, let them have it. After all there is a substantial difference between the rent and revenue legislation in Agra and Oudh and

from my point of view this is a meaningless section that a co-tenant should be given power to mortgage or sell his right in a holding to his co-tenant because no such power is necessary. I do not know where the necessity comes in.

Chairman: The honourable member has asked a number of times what the object of this is. Being in the Chair, I have rather avoided expressing any views and I do not want to express any. But I may explain here that the idea is that suppose there are three co-sharers in a tenancy who may not be getting on well together or one of them may want to go off to some other land then the proposal is that this one who wants to go away should be allowed to sell to his other co-tenants his right in the property and the zamindar is then left with one or two co-tenants instead of three. No one in the sub-committee suggested that any harm would follow to the zamindar. There is also the other point that if they are quarrelling it may be to the interest of all three that one man should take the tenancy and the other two should stand aside and leave the one man who can manage the holding to do it. The other two ought to get some *quid pro quo*.

Mr. Habib-ullah: I believe, Sir, that it is against the Oudh Rent Act at the present moment, and in the Agra province my friend of course has lost his amendment that this might be subject to the sanction of the landholder—I think it is a novel procedure to be adopted. There is no necessity of transferring a holding for really it *ipso facto* passes to the other brothers.

Dr. Mukerjee: May I ask if this really contravenes the law?

Mr. A. A. Waugh: May I explain that this resolution goes far beyond the present law, both in Agra and in Oudh. It includes statutory tenants as well as occupancy tenants as it stands.

Chairman: Now I will put the resolution to the Committee.

(The resolution was put and carried.)

Chairman: Now we come to resolution no. XIV. This was not recommended by the sub-committee, but it was mooted in the sub-committee and it has been printed as a resolution. It is as follows:—

“That every tenant should have the right of occupancy in so much of his holding as does not exceed the size of an economic holding; and that the size of an economic holding should be determined for each district.”

Below this it is noted that the proposal was discussed and on the whole the sub-committee was against it though it received the support of some members. Then Dr. Mukerjee has proposed two amendments to this

Dr. Mukerjee: I am happy now to sponsor an amendment which I trust will appeal to every kind of interests money-lending, tenant as well as landlord. My amendment is this.—

“That the size of an economic holding should be determined for each region or

district and that uneconomic holdings should be exempted from enhancement of revenue or rent.”

(The amendment for the addition of the words “or revenue” was sent in later.)

Sir, there is no need reiterating the point that by far the largest number of indebted and impoverished peasants belong to the category of small holders. The Banking Enquiry Committee went into a detailed enquiry into this subject and found that the number of holdings less than 5 acres forms more than 50 per cent. of the total number of indebted tenants and proprietors, while 50 per cent. consist of all tenants and peasant proprietors possessing holdings either below or at the economic level. Now you are aware that the fragmentation of holdings has gone on apace during recent years. In one district it has been found that 37 per cent. of the holdings are now of 2½ acres or less. Now 60 years back the figure was 23 per cent. In that particular district an economic cultivation unit would be 5 acres. If in a given district the economic cultivation unit which alone can make agriculture remunerative is 5 acres and if in that district nearly 37 per cent. are below this size, how can the holding pay revenue or rent without there being an encroachment upon the essential profits of agriculture upon subsistence or even upon the minimum expenses of cultivation? According to the present revenue or rent policy of Government we find that holders of undersized holdings varying between 25 to 40 per cent. in different parts of the province are asked to pay revenue or rent in a measure which cannot but affect unfavourably both the standards of living and farming. My amendment suggests that such undersized holdings which cannot pay their way, which are neither good for the peasant proprietor or tenant, nor for the land itself, ought to be exempted from enhancement of revenue or rent. In a district like Gorakhpur the settlement officer has found that in one pargana the average size of a holding is 1·3 but there the minimum economic cultivation unit is 3·5. Now we want to exempt such proprietors and tenants from the enhancement of revenue. Without such relief I believe we cannot really do justice to the large majority of small holders in this province. In this particular case I plead that the State has to make some sacrifice. The money-lender has made some sacrifice in the form of reduction of interest and principal; the landlord has made some sacrifice in the form of remission of rent. The State has also to make some sacrifice in the way of exempting owners of undersized holdings from enhancement of revenue.

Mr. Brijnandan Lal: In seconding this proposal I just wish to say that the proposal is a very modest one and I am only surprised why the mover has not proposed that the present rent and revenue should be reduced. We all know that even the small economic holdings are not paying. Uneconomic holdings which are split up into tiny bits are bound to be a losing concern. I think, Sir, it is a very good proposal and should be accepted by the entire committee.

Mr. Habib-ullah: I oppose this amendment. The amendment revolutionizes the whole of the rent and revenue system of this province. Now, Sir, supposing people know that the smaller the holding there will be no enhancement of the rent; what will be the result? Perhaps all the economic holdings in future will be turned into uneconomic holdings to save them from enhancement of rent. Again I think this is really such an important matter of rent and revenue policy that to discuss it in a meeting of this nature is not within our scope, and I find that even at the last meeting, it is said that the proposal was discussed and on the whole the sub-committee was against it though it thought it received the support of some members like Dr. Mukerjee perhaps.

Dr. Mukerjee: I was not a member of that sub-committee.

Mr. Babib-ullah: I said like Dr. Mukerjee. I do not want to dilate on this subject. I think anybody who has got any practical knowledge of the economic conditions of this province and of the rent and revenue policy, will strongly oppose it.

Dr. Dubey: In supporting Dr. Mukerjee's amendment I wish to point out that on the one hand the landlords say there ought to be no enhancement of revenue and the period of settlement should be extended, and on the other hand a representative of that community opposes an amendment the object of which is only to prevent further enhancement. Dr. Mukerjee has only said with regard to the uneconomic holdings, but personally I would include even economic holdings. Most of the trouble at the present moment has arisen simply from the fact that even the present pitch of land revenue and rent assessment is said to be high. There is another reason why I would support the amendment and that concerns the rent and revenue assessment. In the United Provinces there are no exemptions such as are given in the case of income-tax. Therefore it is perfectly reasonable that so far as people with small incomes are concerned they ought to be exempted from further enhancement of rent and revenue. Of course if it is found at a later stage, say 10 or 15 or 20 years hence, that this leads to a tendency of smaller holdings, there is nothing to prevent future legislation being introduced to stop that practice. I think this committee is quite competent to discuss the matters. We have got a number of settlement officers who have done work of that sort. There are the shining lights of the zamindar community who are quite competent to deal with the question and I see no reason why this proposal should not be accepted.

Maulvi Fasih-ud-din: The amendment as it stands is very attractive indeed and on paper there is very little to say against it so far as it goes. But then I submit, Sir, that the amendment is so vague and impracticable that it is impossible to discuss it in a meeting of this kind, much less to come to a definite conclusion about this. In the first place the amendment talks of uneconomic holdings and economic holdings. We are absolutely in the dark as to what is the standard of an economic holding and what is the standard of an uneconomic holding.

In fact the standard of an economic holding varies from division to division and from district to district and from tahsil to tahsil. For instance, for the information of this honourable House I may just say that in the Meerut division the incidence of rent varies between Rs. 16 and Rs. 18 per acre. In the Agra division and in the Rohilkhand division as well as in the Allahabad division the incidence of rent varies between Rs. 9 and Rs. 12 per acre, while in the Gorakhpur division it is only about Rs. 5 per acre and in Bundelkhand it is only Rs. 4 or even less per acre, so in that case it is impossible to find out what is the standard of an economic holding and how to determine that standard. You, Sir, as Settlement Commissioner tried to analyze the rents of the various districts of the province and of the various divisions of the province in order to find out the economic rate of rent and the economic size of the holding.

Chairman: No, never.

Maulvi Fasih-ud-din: And you drafted some proposals about the remission of rents on that basis.

Chairman: No, Sir.

Maulvi Fasih-ud-din: They were, I am afraid, not thoroughly understood by many of us in the Council for the simple reason that we were not acquainted with the technicalities and details of settlement work and for that reason that proposal of yours evoked some criticism. So I submit, Sir, that the amendment of the tenancy laws of the Agra province and of Oudh is under the consideration of the Government and in connexion with that scheme we could bring this matter up. If this scheme were to be accepted in the form as that in which it is being put up, the result will be that all the small proprietors will escape the assessment of land-revenue altogether. The law as it stands at present is to the effect that while the percentage of the assessment of land-revenue on the assessable assets should ordinarily be 40 per cent., it can go down in the case of small proprietors to 33 per cent. and even to 25 per cent. if necessary. So the law provides a very great safeguard for these small proprietors, but to say off-hand that the uneconomic holdings of small proprietors should be exempted from any enhancement in revenue is to talk of a thing which we do not know ourselves. These small holdings of the small proprietors have already been assessed and if our friend means that they should be exempted from the assessment in future, that is one proposition; if he means that there should be no assessment in future for all time to come, then that is quite a different proposition. This second proposal, if he at all has that proposal in view, means that the small proprietors should be settled permanently in respect of revenue. It will come practically to this that the scheme of permanent settlement should be enforced in the case of small proprietors so that their land-revenue may never be enhanced and may stand at the figure at which it now stands. But if he means that they should be exempted altogether from the payment of land revenue then in that case the Land Revenue Act will have to be changed and the whole question will have

to be gone through in detail and not in a manner in which we are proceeding with this question at this time. About rents, embargoes have been put on the enhancement of rent both in the Oudh Rent Act and in the Agra Tenancy Act. In Oudh the rent of no tenant should be increased by more than 30 per cent. and in Agra the limit is 25 per cent. The Government, so far as my information goes, is considering the question of enhancement too. I do agree that situated as we are and in the face of the agrarian trouble that we are passing through, it is very necessary that there should be a stop to any further enhancement in the rents. As a matter of fact those rents which were considered to be very fair some three years back and on the basis of which the new settlements were done, have now become excessive and in fact killing in view of the present situation; and it is high time for the Government, in my opinion, to have a regular scheme of readjustment of rents. Well, that is a definite question, but to talk of economic rates of rent and size of holdings and to exempt them from enhancement and all that, I think, means nothing at all. So we will be wiser if we were to postpone this question for a future occasion till the question of the amendment of the tenancy laws of Agra and Oudh is again taken up. I am very much in favour of giving substantial relief to the tenants, at least those tenants who are paying an exorbitantly high rate of interest, viz., Rs. 2 and Rs. 2-8 per bigha. But certainly the old occupancy tenants who are paying Re. 0-8-0 a bigha do not require much relief. The matter is not so easy as we consider it to be and it requires to be gone into most carefully and in the minutest detail.

Dr. Mukerjee: I am glad to find that the previous speaker is in general sympathy with my amendment though he points out some practical difficulties. Sir, practical difficulties there will be in any scheme of relief of agricultural indebtedness. Fortunately with regard to the determination of the uneconomic cultivation unit in this province some materials have been collected. Here, for instance, is the finding of the Banking Enquiry Committee based on the enquiries of the settlement officers. They found that the minimum economic holding in the Meerut division is 4-6, in Jhansi it is 9-6, in Gorakhpur it is 3-9 and in Lucknow it is 4-7 acres. So there are some data relating to the economic cultivation units, which, though tentative, have been arrived at as a result of careful scrutiny of agricultural statistics in different parts of the province. Now my amendment in fact wants that some effort ought to be made in determining the size of an economic holding district by district, in this province. In fact I plead for the same kind of careful and elaborate enquiry which my honourable friend has just now been suggesting for. Then there is the important principle that there should be an exemption of the minimum economic cultivation unit from further taxation and I believe when I put forward such a plea for exemption I am voicing...

Maulvi Fasih-ud-din: May I ask him to explain whether the exemption is from rent also?

Chairman: It is exemption from enhancement of rent and revenue.

Dr. Mukerjee: There are some under-sized holdings which are below the credit line and if they have to pay revenue and rents, you cannot but encroach upon the bare minimum subsistence and thereby you cannot but detrimentally affect the standard of living as well as of cultivation. In the income-tax scheme you have a line below which no income-tax is charged and that principle ought to be followed in this country with regard to land-revenue and rent. I may tell you that such is the revenue and rent policy which is adopted in Japan and France. In fact it is doing nothing extraordinary. Then there is the other point raised by my friend, Mr. Habibullah, that if you exempt uneconomic holdings from revenue or rent, you would be promoting a tendency towards greater fractionalisation. To that I would reply that peasants sell off strips of their holdings not to evade the demands of the state or the dues of the landlord, but because they find it impossible to cope with the exactions of the money-lender. Such sales are forced. That is why I plead that for the sake of economic justice; we ought to exempt the undersized holdings from enhancement of rent and revenue.

Chairman: I think this amendment had better be treated by itself without reference to the resolution. The question is as to whether we accept the principle underlying Dr. Mukerjee's amendment.

(Amendment put and carried by 12 votes to 6.)

Dr. Mukerjee: My second amendment is this: "That no tenant should have the right of occupancy in so much of his holding which cannot be cultivated by him or his family without permanently employing hired labour."

My belief and conviction is this, that the occupancy status as granted by law can and should be enjoyed by only one person, namely the genuine cultivator, who would actually till the soil. Now if this legal or protected cultivator occupies a holding, larger than what we may call a family holding, a holding which cannot be managed and worked by his labour as well as the labour of his family, there will be a tendency of his being converted into a middleman. The practice of sub-letting has been going on apace in this province in spite of severe legal restrictions. Such a practice has contributed to a conversion of the genuine cultivator, who was an occupancy tenant into an intermediary or a rent-receiver, and it has also invited the money-lender by the backdoor. The money-lender has come in surreptitiously in this way, that he takes over the land paying the rent to the zamindar and re-rents the land at a rack-rent to the mortgager. As a result the land deteriorates in quality; and there also may emerge a new class of sub-tenants, which it may be necessary for legislation in the future to protect. An occupancy tenant, whenever he has got an area of land much beyond that which he can manage, transforms himself into a rent-receiver. Surely when the Agra tenancy legislation was passed, it was never intended to give the legal protection to anybody except the genuine cultivator. If the genuine cultivator degenerates into an intermediary, I submit he forfeits the right of protection. The

legal peasant, in other words, must be the genuine cultivator. The protected peasant must be the actual tiller of the soil. That is a principle, I submit with all seriousness, which is essential for a province like this where there is an enormous pressure of population on the land and where intensive cultivation is the only method to feed the teeming population. Where land is sub-let, where land is mortgaged to money-lenders and where money-lenders come in as sub-tenants, the land cannot but deteriorate in quality. It cannot get an adequate supply of capital and manure. That is why it has been the whole aim of past legislation to protect the peasant, the genuine cultivator who needs to be protected and nobody else.

Lala Anand Sarup: I second it.

Babu Awadh Bihari Lal: May I know whether this resolution replaces the first part of the original resolution, or is it an additional one?

Chairman: It will not replace that. It is independent of that.

Dr. Mukerjee: I want to make* that clear. There is not much difference between this and my amendment, only that I want to make the meaning of the economic holding very clear in the case of the status of a tenant.

Chairman: I think it is for me to decide what it means. As I read it, it means that you are going to take away occupancy rights in an area in excess of an economic holding from everybody who enjoys it at present.

Dr. Mukerjee: It is not exactly that. The amendment wants to take away the right in case the size of the holding is much beyond what the tenant or his family can manage without permanently employing hired labour—which will be much beyond the economic holding.

Chairman: Well, perhaps, I was wrong in referring to an economic holding: but what it means is that an occupancy tenant who is holding more than he can cultivate himself should be allowed to retain only that much which he can cultivate himself, and you can take away the balance. The resolution proposes to give the right of occupancy to every tenant in as much of his holding as is equivalent to an economic holding. One is taking away from an occupancy tenant the right of occupancy, and the other is giving the right of occupancy to a tenant who has not got it already.

Mr. Brijnandan Lal: I rise to oppose the learned Doctor. He wants to take away what he has given by means of the previous amendment. His amendment comes to this that if a tenant has sub-let his entire holding, he may not get occupancy rights in the entire holding. It would also mean that if he has got say five acres of land and he does not cultivate two acres himself he will forfeit his occupancy rights in that part. That is to say the learned doctor has set his face against the women and the infirm who cannot cultivate their holding themselves. They will not be able to sublet them.

Dr. Mukerjee: They will form exceptions.

Mr. Brijnandan Lal: The exceptions may be in the learned doctor's mind, but they are not on paper. This amendment intends to take away the rights which the tenants already possess. We are here to give relief and not to curtail the rights of the tenants. There are large number of tenants who own occupancy rights but are not able to cultivate their holding themselves. One may be able to supervise one's holding, while he may not be able to handle the plough himself; he may be employing labourers, I know many farmers who are very good managers, who cultivate through their labourers, but they are not doing the work themselves. I think this amendment will be very harmful to the tenants and should not be accepted.

Dr. Dubey:—With your permission, Sir, I want to bring forward a few observations for the consideration of the Committee. Dr. Mukerjee appears to have got in his mind the recent movement in the European countries whereby large farms are broken up into small farms for the purpose of helping the small farmers. In Great Britain the economic holding means something like 50 acres. Now I would submit for consideration, the remarks of a very competent person, whose advice is unfortunately not available to this Committee here but who has written a pamphlet on the subject of agricultural debt. I am referring to Mr. Mudie, the distinguished Collector of Cawnpore. He writes with regard to subletting as follows: "Sub-letting therefore brings in no new class of tenants and so does not lower the average area cultivated per family." He goes on. "It is however the means by which those who have too much land pass it on to those who have too little." Later on he says "In short, those who are most fitted for cultivation are not necessarily those with the most land and those who are most fitted for some other employment are not necessarily those with the least. Sub-letting serves the useful economic purpose of enabling good cultivators who have too little land to obtain more and enables persons who have aptitude in other directions to avoid spending too much time in cultivation." Therefore, I say that on principle, the practice of sub-letting is very wholesome and consequently it would be discouraging a very good system if that right of occupancy tenants were taken away. Some of these rights were conferred years ago in the time of Lord William Bentinck. There is no reason why we should take away this right now.

Mr. Rudra: This was tried in Russia with the full force of the Soviet Government behind it, but the results have been disastrous. Hired labour has to be employed in the conduct of agricultural operations however much we may like to prevent it. I think that such a measure if introduced in this country would prove an absolute failure and equally disastrous. So I oppose it.

Dr. Mukerjee: Nobody could answer the point which I emphasized most. The point is this, that the whole trend of land legislation in this province, so far as it relates

to the occupancy tenant is to protect not an intermediary but an actual tiller of the soil. Now if an occupancy tenant acquires too big a holding, which he cannot cultivate without permanently employing hired labour, I think that he forfeits the right of special protection. No zamindar would like, as one of my friends describes, his occupancy tenants riding about on elephants and neglecting the land, letting it out to others. I contend, Sir, that this practice of sub-letting is inimical to the interest of successful intensive farming. A Collector says that sub-letting is a necessity under special circumstances. It will be necessary in the case of the infirm and the women. Of course, when you accept an amendment like this, there will be legal provision for such exemptions; but as a general rule, you have to agree with me, that the practice of subletting is always detrimental to the interest of successful farming. We have had abundant evidence in our Banking Committee. Against Mr. Mudie I would like to pit Mr. Wallace, who knows about agricultural conditions very intimately, and he strongly deprecated the evils of sub-letting in his district. Now if the size of a holding gets beyond the area where sub-letting becomes indispensable, I should contend that the tenant should not have the right of occupancy in that. After all occupancy status implies a great responsibility; it must not mean the right to impoverish the soil. I wish that my learned friends will remember this.

(Amendment lost by a large majority.)

Chairman: All that remains of the original resolution is "that every tenant should have the right of occupancy in so much of his holding as does not exceed the size of an economic holding." Is anybody prepared to support this resolution?

Rao Krishnapal Singh: I support it. I think it is a very sound one and it is in the interest of the zamindars as well as the tenants to have this proposal carried. I would have been in favour of the other proposal, which has been just dropped by the committee. I think it is a very sound one and I wanted to add a proviso and move a sort of amendment to the effect that exemption should be made in the case of women and children who are unable to cultivate themselves, and that the words "permanently employing hired labour" be omitted.

Chairman: We are not discussing that proposal now.

Rao Krishnapal Singh: I support the main resolution as it stands.

Mr. Habib-ullah: I think I am the only man from Oudh representing the British Indian Association, and as its representative I enter my emphatic protest against this resolution, because it introduces a system which does not exist in Oudh at the present moment under the law, and it will be against all principles to introduce matters before this committee which alter the existing laws. I may find support from one man I think, Mr. Waugh, who, though not a member of the British Indian Association, has got as much interest at stake as I have. In fact the resolution as it

stood was from the very beginning not received with favour and I do not think really it will be fair to bring in such contentious resolutions before this committee, where the existing laws of the province come into clash. If this resolution is at all considered, I again ask the committee to make a distinction as has been made in the matter of the Revenue Act, that it should be applicable only to Agra and not to Oudh.

(Resolution lost.)

Chairman: So all that remains is this first amendment of Dr. Mukerjee.

Mr. Habib-ullah: I believe all the amendments are lost now?

Chairman: No, the first amendment remains. I had to split it up. The thing was far from clear. It was not god-fathered by the committee at all, but as it was circulated to the members, I thought that members might feel they were not fairly treated if I did not put this on the agenda. The sense of the committee was that the first amendment of Dr. Mukerjee was approved and the other turned down.

Chairman: Now we come to resolution no. XV. I suppose you will all agree to no more settlements. It runs: "That no revision of settlement in any district should take place for the next ten years, except in the case of alluvial mahals."

Maulvi Fasih-ud-din: I am opposed to the resolution in the form in which it has been put. Sir, this resolution is very attractive from the point of view of those zamindars of those districts the term of which is about to come to an end or has already come to an end. But in my opinion it is not a panacea for the ills which the zamindars and tenants of this province are prone to. If no new settlement is to be taken up for the purpose of increasing the rents and revenue, then certainly new settlements are needed for the purpose of revising uneconomic rents and bringing about a proportionate revision in the land revenue. His Excellency Sir Malcolm Hailey said in his address to the Council just exactly a year ago, that during the last thirty years there has been such a tremendous rise in the rents as 50 per cent. and we all know that the rents which prevailed about three or four years back have now become exorbitant on account of the changed agrarian conditions of this province. For that reason, I think it is very necessary that there should be a general scheme of the revision of these rents and, if necessary, the revision of land revenue also. This resolution, as it is worded, simply says that there should be no settlements for ten years more. My own strong conviction is that it is high time for the Government to look into the matter and to have a general readjustment of the rents and, if necessary, readjustment of revenue too, if not for a period of forty years, then for a much shorter period, say ten years or even five years, so long as the present agrarian conditions are not settled. I submit, Sir, that the settlements which were carried out between 1925 and 1929 too have become out of date. I had an occasion in connection with a book that I have written on the land revenue settlements

of this province, to look into and scrutinize the various settlements of this province and I came to the conclusion that the least objectionable settlement was that of Budaun by Mr. Waugh. But even that settlement which was finished about four years back, has become thoroughly out of date, and it is impossible for the zamindars to realize the enhanced rents which were fixed by the Settlement Officer four years back. Sir, we know that the frequent remissions in rents and land revenue are absolutely of no avail. If these remissions are to be made on a proportionate basis, then the zamindars will have to suffer a good deal : in this way, that if (say) according to section 73 of the Agra Tenancy Act there was a proportionate remission in rents, i.e., for every Rs. 40 of the remission of land revenue there was a remission of Rs. 100 in rents, or according to section 19-A of the Oudh Rent Act if the remission in rents must be double the remission of land revenue, then the result would be that there will be a proportionate remission in the rents of all classes of tenants. If the remission amounts to 25 per cent., i.e., four annas in the rupee, then the tenant who is paying eight annas a bigha will have to pay six annas a bigha on the proportionate basis, and the tenant who is paying say Rs. 2-8 per bigha will have to pay Re. 1-14 per bigha. The result will be that while the remission in the rent of the man who was paying eight annas a bigha was not needed at all and the zamindar could realise that rent very easily, he is not in a position to realise the rent from the man whose rent has been reduced to Re. 1-14. Naturally the result is that the loss to the zamindar is very great and very serious. For that reason I think a readjustment of rents by settlement is absolutely needed. In that case the realisation of the rents by the zamindar will be easier and he will not have any complaint to make that the remission in his land revenue has been disproportionate to the remission in rents. The Government too will not be led to the necessity of frequent remissions in land revenue, and its income from land revenue will be stable. For that reason I think it is high time now for the Government to revise the settlements with a view to the readjustment of rents and revenue and on that account this resolution is rather ill-advised.

Mr. Habib-ullah : I am glad that my friend the Khan Bahadur Sahib has spoken in a strain which distinctly shows that he is not only a landlord but has also in consideration the provincial finance. After all the recommendatory resolution, as it stands, that no revision of settlement in a district should take place, means a settlement as carried out under the Act. That is a settlement of forty years. Well, Sir, as pointed out by my friend, even where settlements have been made before this depression in prices began, the Government may find it necessary to revise these settlements in the light of the present prices. Again, Sir, there may be times when the prices may improve—I am not talking about 10 years, it may be four years or five years—there is no reason why the provincial exchequer should be stopped from starting settlement in the districts which have not been settled, after the lapse of three or four years. I think this resolution is neither in the interests of

the provincial exchequer nor in the interests of the landholder, and I do not know the underlying principle on which this recommendation was made. Perhaps it was considered that the state of the country will be very bad for another ten years to admit of further enhancement. But it is not only the enhancement which we will have to consider. The Government will have to consider the question of reduction and we should not prevent the Government from making an enhancement where enhancement is needed. In the circumstances, I think the resolution as it stands should not be accepted.

Babu Awadh Bihari Lal : May I suggest a proviso that will meet the suggestion of my friend, "Provided that this would be no bar to any readjustment of rent or revenue necessitated by the present agrarian situation."

Chairman : I think that makes it still more complicated and still more useless than it is at present. It is hardly relevant to agricultural debt, as it stands. I do not think I can allow that amendment at this stage.

Babu Awadh Bihari Lal : I think it is relevant so far that we are making provisions for reductions of rent and revenue by way of remissions only. It will be necessary to make a readjustment on the basis of the prices prevailing now and that should not be debarred by this resolution.

Chairman : Well, it won't be, I am quite sure.

Rao Krishnapal Singh : I quite agree with my friend Shaikh Habib-ullah Sahib when he says that settlement does not necessarily enhance the revenue: sometimes settlements have to be carried on for decreasing it. Therefore, the resolution as it stands, is not absolutely satisfactory. While dealing with the question of settlement, I would like to make a few observations. I think, Sir, it would be in the interest of the agriculturists, if a few points are borne in mind when settlements are made in future.

Chairman : Well, is that relevant to the position? You have simply got to support the resolution that the revision should be postponed or to vote against it. You cannot go into the whole question and observations regarding what should be considered and what should be done when settlements are taken up in future.

Rao Krishnapal Singh : I am prepared to bow to your ruling. I have only to submit, Sir, that when points have been raised by one other member, I do not think another member can be prevented from meeting those points. If the Chair rules that I shall not be in order while the member who preceded me was in order, I bow to your ruling.

Mr. Brijnandan Lal : I have very great respect for the learned Khan Bahadur, but my experience during the last few years during which I have worked with him is that he is opposed to all good proposals unless they emanate from him. Now he has come forward to oppose this proposal. This proposal will affect only those districts which were settled thirty years ago. The settlement rule is that

they take into consideration the rents that were prevailing for thirty years: if the rents were reduced during the last one or two years, they will not be taken into consideration.

Maulvi Fasih-ud din: He does not know law.

Mr. Brijnandan Lal: It is a question, Sir, for the Committee to decide whether I know law or he knows law, I repeat that the result of a settlement now will be that it will be an all-round enhancement in land revenue instead of reduction. As regards the question raised by Mr. Habib-ullah that the settlements made only some years ago should be revised, I do not know how that can be done. They will be revised after the prescribed period has elapsed. On paper the *jamabandi* has nearly doubled, although as a matter of fact the rents have been reduced very considerably. With these words I support the resolution.

Babu Madhusudhan Dayal: I rise to support the motion. I come from the Meerut district where Mr. Waugh has been Settlement Officer. Out of the four tahsils which he could settle and write his report upon, which may be in the archives of the Government, only two tahsils have been visited by them, and two have not been visited by him yet, and his sword is hanging over the head of the zamindars. The rents have been reduced mostly in the Meerut district of statutory tenants. We have let out lands on very low rents. But his report might be up to date even in the year 1933-34 and his judgment might be on the 1929 basis. He is not going to revise his judgment and the Government and the Council may not vote expenditure again to revise this settlement. Therefore to remove this sword which is hanging over those districts which have been partly not settled, and those districts which might come under settlement, I think this is a very good resolution. So that the zamindars might know that the settlement is for ten years and by then Mr. Waugh can come again to Meerut and revise his judgment. If you don't want to make it of general application I think you might limit it to Meerut district alone, so that the settlement of the Meerut district may not be undertaken for another ten years.

(Resolution carried by 13 votes to 4.)

Chairman: Professor Rudra has given notice of a resolution at the end of this paragraph. It arises from a suggestion made by Rai Bahadur Hanuman Singh to the sub-committee regarding peripatetic money-lenders and cloth dealers. There was nothing very definite but a definite resolution is now being proposed by Mr. Rudra.

Mr. Wajahat Husain: The proposal is to move the following resolution:—

- (a) That no peripatetic money-lender or cloth dealer shall be allowed to carry on his business in the country-side within municipal or cantonment limits, without a licence.

(b) That these licences shall be renewable each year and shall specify the area within which the holder will be authorized to prosecute his trade.

(c) That these licences shall be issued at the first instance at a fee of Rs. 50 per each person or agent, and will be renewed yearly at a fee of Rs. 10.

(d) The licensing authority for municipal limits will be the Executive Officer or other responsible persons authorized by him for such purpose (similar powers will be granted to the proper authorities in cantonments and notified areas within the province.)

(e) The licensing authority for the rural areas will be the tahsildar in case of individual dealers or money-lenders, limiting them to his respective tahsil; the Collector or his nominee in the case of the agents of well known *sahus* or money-lenders of dealers for the entire district.

(f) That persons found guilty of dealing without holding such licence will forfeit all dues against them, and will be imprisoned for a period of not more than five years and not less than two years. In the case of the nationals of other countries a suitable fine and immediate deportation out of the country, at their own cost, will be summarily authorized by the Collector of the district, within whose jurisdiction such peripatetic money-lenders have been caught."

Mr. Rudra: I regret very much, as I said at the very commencement of the first meeting of this Agricultural Debt Committee, and still more now, that we have absolutely no representatives of certain very important sections of the people, for whose benefit we are assembled here, *viz.* the tenants and the agricultural landless labourers. That is my opinion and I think my facts are probably not wrong. The Committee is composed of gentlemen who know so thoroughly the agricultural conditions of this province that it is not for me to portray the wretched condition of the people on whose behalf this resolution is supposed to operate. They are really the under dogs of our community, and they need our help and succour. I think it will not be asking too much from us to do something to try and mitigate, to a certain extent, the unfortunate circumstances and conditions under which these people have to get credit. I must also admit with frankness that the creditors, the Khans, the Aghas, the Sikhs, the Punjabees and Beharees, who come and offer credit, are certainly rendering a service to a section of the community which nobody else touches, not even the village money-lender. They are ready to offer credit when credit is sorely and urgently needed. I have come in contact with some of these money-lenders, Aghas and others, men of large heart, who take a great deal of pain and trouble, and

who do supply the necessary credit which no other agency in this country will supply. But they are the exception rather than the general order. A large majority of this type of money-lenders resort to practices which I need not describe here, they are harrowing in the extreme. The problem is my special subject of labour, and I can illustrate and give personal examples of some dreadful happenings in connexion with these dealings. But I think, for people such as compose this Committee, it would be presumptuous on my part to portray the conditions of these wretched people. I feel, and I at once admit, that people like myself are mere pedagogues and theorists and probably the manner in which we wish to help these men may not be practicable from the administrative point of view. Those gentlemen, who are practical people, can probably modify and amplify and correct this measure, which I wish to be passed and which in my judgement ought to be passed.

In the matter of licence which I have thought it necessary to be issued to the people who wish to supply credit. I have purposely avoided giving details as to what should be the provisions in these licences. For instance I might have said that the rate of interest should be so and so, but I at once realised that it will be extremely difficult to legislate a general rate of interest by which this sort of credit accommodation should be given to the various categories of people who demand credit from the peripatetic money lenders. It would be extremely difficult because each individual case will have to be judged on its own merits. So I have avoided that particular item in the licence. My real anxiety in this matter is not to fix the rate of interest, but really to determine or control, in so far as such legislation can at all control, these things. I doubt very much, but I do think there will be some beneficial effect in having legislation of this description on the statute book. It will be preventive and helpful. But my main anxiety is that the criminal procedure and other objectionable methods adopted by these creditors in their dealings with their borrowers should be stopped. No self-respecting country should, I think, allow for a minute, some of the practices that are adopted by these people. I do not wish to mention the things that I do positively know, but I think it is high time that we, who are sitting in high places, and have got the privilege of being in the position that we are in, should turn our attention to the men who are being crushed to death, and not only men, but also women. I therefore beg to move this resolution with these items. It is quite possible that certain items, for instances, (b), (c), (d), and (e) are matters of detail and it is up to the members of this committee, who have far more intimate knowledge of the practical difficulties, if they feel that they are useless or inefficient or over-stressed, then certainly I shall have no objection to their withdrawal or amplification. But I feel very strongly that (a) and (f) should be carried out. So I very respectfully and very earnestly commend this resolution for the acceptance of this Committee.

Dr. Dubey : I second the resolution.

Chairman : If any members have any amendments to move will they please give them in writing.

Mr. Habib-ullah : I understand that our business here is to put restrictions on the excessive interest that is being charged by the bankers and other people from the agriculturists. That is what I understand is the sum total of our business. This resolution, as it stands does not refer only to the agriculturist section of the community but to the indebted people as a whole. Again we find that it introduces a system of licensing in order to carry on a certain kind of loan transaction, or what they call dealing in cloth. It appears to me that it is against the general principle of trade to introduce such a system. If the principle is accepted the very question of free trade is affected. What we want is what we have already done, i.e., we have fixed limitations on the charges of interest and beyond those limitations that we have fixed no court will in future entertain any claims which are not covered by our recommendations.

It is said that these dealers do certain acts which are inhuman or intolerable. I have seen with my own eyes these Aghas and Sikhs going to villages, where they have a very summary way of dealing with these villagers and there extracting money from them. Now comes a very very broad question of the formation of village society as at present. I think if our village communities are what they are today, and they do not put up with all these illegal acts of these people, no such thing will be necessary as is suggested by Mr. Rudra. I believe that when we have introduced what we have already recommended as a screw against the exaction of exorbitant interest or adoption of illegal procedure, all this will be found unnecessary. In bringing this resolution we do nothing more than show that the rural masses at the present moment are in such a condition that people from outside invade, oppress and harass them in such a fashion. I think for everything they do the present laws are quite enough. Their actions are at times criminal to see the way in which they exact their money. But people take no notice. I have not come to criticise Mr. Rudra, but I am offering my suggestions and he may accept them if they are of any use to him because I know these evils do exist. A resolution of this kind is necessary and especially necessary everywhere, even in the cities and in municipal areas, as a protection against all sections of the community, the non-agriculturist, the labouring classes, etc. These are my general observations against the principal of this resolution.

Chairman : Mr. Sah wants to move an amendment. He proposes to delete the word "cloth" in (a) leaving the provision requiring a licence to apply to all peripatetic money-lenders or dealers, and he proposes to cut out all the four sub-sections (b) to (e); and he proposes to cut out the end of (f) prescribing imprisonment for persons guilty of dealing without holding a licence.

Mr. Sah : My amendment may be divided into three parts. The first is as regards the deletion of the word "cloth." My object is

that the resolution does not go very far if we stick to the word "cloth." We exclude other people e.g. people selling mirrors, soap and other things. They may not come under that and we would be restricting the scope of the resolution.

As regards the deletion of sub-clauses (b), (c), (d) and (e), they are simply matter of detail and may be taken up later. They might be inserted by the Committee that is drafting the Act.

As regards (f) I have always expressed the opinion that I am for abolishing imprisonment, and my object is only human. If they lend money without a licence they are not committing any crime and the utmost penalty should be the forfeiture of their dues altogether. We should not send them to a prison at all and certainly not for a long period of five years.

(The amendment not being seconded, was not taken up.)

Chairman: Mr. Bijnandan Lal has handed me an amendment in which he proposes to reduce the term of imprisonment in sub-section (f). At present the words are "not more than five years and not less than two years." He wants to substitute "not more than six months."

Mr. Brijnandan Lal: My object in moving this amendment is that if these gentlemen are kept in prison for five years they will eat away so much money of His Majesty that it will really mean a loss to the Exchequer. I think they will use up more than the profit they will make out of the people. Besides, the penalty will be too severe for such a crime. Five years is suitable for such crimes as dacoity. I think it should be reduced to six months.

Mr. Sah: I second the amendment.

Mr. Rudra: I am prepared to accept the reduction of imprisonment to six months.

Chairman: Is it the wish of the House that the original motion should be amended like this?

(No objection.)

Pandit Shree Sadayatan Pande: I want to inquire about one thing. It seems that we are dealing with paragraph (f). But what about the preceding paragraphs? We are dealing with persons who are found guilty of not having taken out a licence, and yet we have not considered the licence.

Chairman: That will be considered on the main resolution. I am just putting the amendments.

Chairman: Professor Rudra. It is suggested that in sub-section (d), where you say "The licensing authority for municipal limits will be the Executive Officer or other responsible persons authorised by him" the words "by him" should be changed to "by the board." I think that may be accepted.

Mr. Rudra: I have no objection.

(The amendment was accepted.)

Chairman: I have finished with the amendments. I want to get views of the House on the resolution as it stands.

Dr. Dubey: I want to support the principle of the resolution. Mr. Habib-ullah spoke on the resolution and he said that the present law is enough to deal with persons like these. I might say that this resolution is very important. It is intended to deal with a class of persons that does not usually resort to get justice by means of law, but who usually thinks that might is right. There are many malpractices that are resorted by this class of persons. An authority who has got experience of the whole of the United Provinces in regard to such things says: "It is, however, not so much to the high rate of interest that the objection against the system of money-lending by them is taken it is the means and methods that they use for the recovery of their dues that are highly objectionable. Assaults, intimidation, insults to debtors both to men and women, wrongful restraint and dharna are some of the measures adopted by them. They strike terror into the heart of the poor debtors, and they dare not file a complaint against them. The initiative in prosecuting them if the prosecution is to be successful should be taken by the Government."

I might give an instance of a person. A Kabuli happened to give some money to a poor Muslim cultivator in a village, and the latter died. The Kabuli was insisting for the repayment of the money from his people, but they would not pay. He then went to the tomb of the deceased and began beating it, and ultimately when the village people gathered round him and said "It is very bad to do such a thing" he replied "I will beat this tomb until it is in a position to give back my money." Ultimately the villagers subscribed the amount and paid it to the man.

It is such people whom Mr. Rudra wants to punish. It is a different thing altogether that you make this provision less stringent. I would leave a great deal of discretion to the Executive Officer as to how these licences are to be issued, how they should be renewed, and in what manner they ought to be dealt with. But there is a great necessity of making some sort of restriction on these peripatetic money-lenders. As a matter of fact these are the people who have brought the business of money-lending into disrepute.

Pandit Shree Sadayatan Pande: I oppose the whole thing, because it will be a sort of most drastic measure which is sought to be introduced in the rural areas. In the first place I should like to tell the Committee that the district board has already assessed all classes of people residing in the rural areas. The district boards have got the power to tax people, and if a particular district board does not want to assess people in one district it is a different matter altogether. As regards money-lenders and dealers of various commodities in the rural areas the district board assess them on a particular income. As far as I know, any person whose income is up to Rs. 200 a year is assessed. The notified areas and town areas are not excluded from that taxation.

Here our friend, Mr. Rudra, who, a few minutes ago, himself confessed that he is a mere pedagogue, that he has not got practical

knowledge of the things existing in the rural areas, pleaded that his suggestions might be modified, amplified and cut down by more experienced people in this Committee. I quite agree with him there. But then, Sir, his proposal is of a drastic nature. His motion, I tell you frankly, has not appealed to my mind in the least, because considering the meagre income which the people in the rural areas are now getting owing to the economic depression in every kind of thing, they are not in a position to pay a double tax. People having a particular income pay income-tax, people pay land revenue, people pay to the district board, people pay to the Notified Area and so on. I do not know whether their blood will be sucked for paying these taxes. The conditions of other countries are quite different from those prevailing in this country. Everybody will recognise and bear me out, that there is a vast majority of peasants and other people in the villages, who do not get two meals a day regularly and properly. There are some peripatetic cloth dealers and dealers of other commodities, pedlars and other people, with a capital of Rs. 25 or Rs. 50. They go on doing their petty business and hardly earn 8 annas or 10 annas a day. Some day they do not earn anything at all and it will be most unfair on our part to tax them. A Government ought to tax only those people who are properly fed and properly clothed. We should not tax people who are half-starved and are not well clad. Our proposals ought to be of a constructive nature. We must go about preaching social uplift in the rural areas, tell our tenants that it is very bad to borrow money, to buy cloth at exorbitant prices and pay exorbitant interest to such dealers. But it is not fair to tax every kind of trade and money-lending. It is not only the Aghas, the Punjabees, the Beharees including Halias and others, who deal in various trades in our province, but it is the people of our province as well, though in a small proportion.

In the next place I would say that the fee proposed for licensing are exorbitant. When I have opposed the whole thing it is no use for me to deal with the amount of licence fee.

A suggestion has been thrown out with regard to defaulting dealers and it aims at imprisonment from 2 to 5 years.

Chairman: It has been altered to six months.

Pandit Shri Sadayatan Pande: That is also too much.

With these few words I oppose the amendment.

Kunwar Jagbhan Singh: I was very much surprised to hear the remarks of Pandit Shri Sadayatan Pande. Professor Rudra has done the greatest possible service by bringing forward this proposal. I can say with firm conviction that he is not a pedagogue. He has studied the subject well. He comes in contact with these people in his rural tours, and he has come to the definite conclusion that these people are a terror in the rural areas. I have seen many cases with my own eyes, and Dr. Dubey has amplified the position by mentioning the treatment of that particular Pathan who beat the tomb. I am

sure these measures are not at all stringent. I may, however, say this much that if this class were to be totally wiped out of the rural areas, and if there was no credit available at all, if our people learnt to support themselves rather than pocket insults from people of other countries, it would be much better.

This resolution is very important and it would be a great pity if the members of this committee were to vote against this resolution. I hope it will be passed unanimously.

Dr. Mukerjee: I would like to support whole-heartedly the resolution of my colleague. During the time of every harvest a stream of Aghas, Peshawaris and Kabulis, invade the valley of the Ganges. They penetrate into the remotest villages and pursue their business even in the most secluded areas. It is well known that their methods of operations are very drastic. They usually depend on the effectiveness of the lathi blow rather than anything else. So that if some measure for the licensing of itinerant money-lenders is carried out, it will not merely check the methods of their operations, but it will perhaps delimit also the zone of their operation. There is one little point about which I have some difficulty. We know that all itinerant cloth dealers in this province are not money-lenders. If we shut out all itinerant cloth dealers we might touch our hand-spinning and weaving industries in the villages. There are cloth dealers in the villages, in the first place, who do not supply cloth on credit. Secondly if we insist on a licence from every one of the cloth vendors, it may affect rural weaving. Perhaps when Mr. Rudra mentioned cloth dealers, he meant cloth dealers like the Aghas and Peshawaris.

Mr. Rudra: When I started this topic, I admitted at once that these money-lenders and other dealers are rendering important service, I personally know many of them and some of them I count as my friends, large-hearted men, who do help the people. But they are the exception rather than the rule.

I am grateful to many gentlemen who have been kind enough to throw out criticisms—and very valuable criticism against this proposal. In particular I am grateful to Mr. Habib-ullah for many of the things that he has said. He is quite correct when he said that I have gone beyond the scope of this Committee in including people who are not agriculturist, especially people who are residing in town areas and cantonments. I quote one example. My own servant is not an agriculturist by any means and yet he is in the hands of these people. I very gladly accept his advice and would exclude the non-agriculturists. That is a very reasonable objection.

Then Mr. Habib-ullah said, that my proposal interferes with the practice of free trade I certainly admit that. It is definitely an interference with the laws of supply and demand. But surely the very inception and the existence of this Committee is, I believe caused and called for interfering and seeing if interference is necessary with the laws of

economics, that is the law of supply and demand. No modern state of these days would subscribe absolutely to the classical doctrine of non-interference. I think a death knell to that doctrine has been given quite successfully by thinkers, philosophers and also administrators. I make no kind of apology for making such an interference where I think it is necessary.

The other point was that the high rate of interest will really not be applicable, and the rate of interest that has been fixed by this Committee will meet the situation of this particular class of borrowers. If that is so then I think that is all very well, and if it will meet the conditions of the people I think it will satisfy a great deal of my contention. But I have some hesitation because in this body, opinion has been expressed that agricultural labourers are not to be benefited by the provision of this rule.

The next point was that the criminal laws in this country, such as they are, are sufficient and adequate to deal with these people. I suppose they are. But in practice I find that they actually never come into operation. Therefore an addition to the criminal legislation of the country will not be doing any serious harm to the community.

Then Mr. Pande has said that the measure is drastic. Well certainly it is. I think the evil is drastic and drastic things must be met by drastic measures.

I did not quite follow his criticism with regard to tax. Certainly it was not my intention to impose any tax.

The next point was that we are imposing an impediment on the operations of petty dealers by demanding a licence fee. Whereas, as I said before, the amount I fixed was only a matter for discussion. I think they have enough margin of profit, for the risk they are undertaking, and a small fee, whatever the Committee might fix, can easily come out of that to cover this licence.

Then he said, why should you especially earmark Pathans and Sikhs and Beharees, while there are many people of that description who are residents of this province, who are dealing in this kind of credit supply? Certainly, Sir, neither in the wording, nor is it my intention, nor is it my desire to exclude such suppliers if they happen to be residents of these provinces. I gave typical examples which came to my mind with regard to the Sikhs, Beharees and Aghas.

Dr. Mukerjee has reminded us that by this word 'cloth-dealer' we may interfere with those men who are helping and improving the hand-loom industry—the main industry of the peasantry of the country. When I used the word originally, I certainly did not think of the type of dealers that he has brought to our notice. But I happen to know the condition of the village of Sivait, which is populated mostly by Muslim weavers, and I find that the people who come in and give orders for weaving of cloth, and so on, are exacting terms from these people which are,

I think, very harsh and hardly leave a subsistence wage. I think with the development of the domestic industry of weaving and spinning in the village, we are repeating the conditions which prevailed at the end of the 18th century in Great Britain, where domestic industry was flourishing not in the hands of artisans and journeymen, but in the hands of the merchant guilds. I think those conditions are prevailing now, and I know from my own personal knowledge that in the village of Sivait, near Allahabad, these things are happening. But if he thinks that this sort of dealer should be eradicated then I would give way to his greater knowledge, but I wish him to produce some other kind of word, until he does so I am not prepared to withdraw this term that I have used. For that very reason I was wanting to move a resolution, which I showed to my esteemed friend the Secretary of the Committee, with regard to introducing a legislation in order to regulate the minimum wages of agricultural labourers. Because if we can somehow give them more than the subsistence wages we shall help definitely in their avoiding to resort to credit from money-lenders. It is just because the landless agricultural labourer is not getting a sufficient wage that he is compelled to go to these money-lenders for help. These are the only things that I have to say, and with these words I commend the resolution.

Chairman: I will now put the resolution to the vote.

Two amendments have been suggested and accepted. The first is that the licensing authority is not the Executive Officer, but the board.

The second is that limit of imprisonment is to be six months.

I repeat, as the mover himself said, that it is not necessary to specify the final form which the resolution should take. What the opinion of the Committee is asked for is on the general principle as to whether every peripatetic money-lender and cloth dealer should be licensed on the general lines set out in this resolution.

(The resolution was put and carried.)

(The Committee then adjourned for lunch.)

Proceedings of the Agricultural Debt Committee held on July 4, 1932.

SUB-COMMITTEE II.

(After lunch.)

Chairman: We now pass on to sub-committee II.

Mr. Sah: Before we pass on to sub-committee II the definition of 'agriculturist' may be discussed.

Chairman: Does it affect sub-committee II one way or the other? We had better get on with the printed work.

Dr. Mukerjee: There is one resolution at the end.

Chairman: Move it.

Dr. Mukerjee: I beg to move "That no ex-proprietary, occupancy or statutory tenant

can sub-let his holding for more than three agricultural seasons, and shall not sub-let again, within a period of five years, any portion of such holding which was held by a sub-tenant." You know that the present law is that an occupancy tenant may sub-let for a period of five years and a statutory tenant for a period of three years. There is an overwhelming evidence in the province that usufructuary mortgages as substitutes for sub-leases are very common indeed. Now in such circumstances you see the law is evaded and a very peculiar situation arises. The money-lender comes in as a sub-tenant and his legal position is most uncertain. So the kind of sub-leases in the form of usufructuary mortgages which are prevalent now is good neither for the money-lender, whose legal position is absolutely precarious, nor for the cultivating tenant, who does not find his debt wiped out, even though he may be working on his land and it is also bad for the land which suffers deterioration. There is evidence to show that sub-leases have actually led to the deterioration of land. Sir, the law does restrict sub-letting, but I contend it does not restrict sub-letting in such manner as is desirable, for all the parties, the cultivator, the money lender and finally the community as a whole must insist on the most effective cultivation of the land itself. That is why I would like to reduce the period of sub-letting from five years to three agricultural seasons and in this I am supported by the precedent of the Central Provinces Act where the right of sub-letting is permitted for not more than three agricultural seasons. I have nothing more to add and I commend the resolution for your acceptance.

Chairman : Is this resolution seconded ?

Maulvi Fasih-ud-din : I second it, Sir.

Babu Awadh Bihari Lal : I beg to point out that these sub-leases are usually mortgages. The cultivator borrows money and sub-lets it for a term of five years. We have made a provision in resolution 12 that the holding can be mortgaged to Land Mortgage Bank for five years. I think it would be unnecessarily curtailing the privilege of an occupancy tenant if we reduce his term of sub-letting from five to three years, and if mortgaging for the purpose of payment of rent is permissible sub-letting also to that extent should be permissible as it is under the present law.

Mr. Brijnandan Lal : I think the object of this resolution is to reduce the period of sub-letting not only to three years but to one and a half years. Agricultural season is one crop and it is reducing from five years to one and a half. That will be curtailing the rights very much and I think it would be very harmful to the tenantry.

Khan Bahadur Maulvi Muhammad Obaid-ur-Rahman Khan : May I say one thing. I think if this resolution is adopted it will be too hard for tenants. I have given full consideration to this proposition when the Agra Tenancy Act was before the Legislative Council. There are circumstances when a tenant is forced to sub-let his holding and if we put such a premium on it, I think it would be too much and I hope that my learned friend will not insist upon it because the period of one and a half years is too short. There are

circumstances when it is unavoidable for him to sub-let it at least for three years or five years. After full consideration we have assented to give the right of sub-letting to the occupancy tenant for five years at a time and to the statutory tenant to sub-let his holding for three years. Now he proposes to restrict the right of the occupancy tenant to one and a half years only. I think it is not fair. Therefore I would request him to reconsider the proposal and to withdraw his motion.

Dr Mukerjee : I withdraw this resolution.

(The resolution was withdrawn.)

RESOLUTION I.

Chairman : I now go on with the resolutions of sub-committee II.

Mr. Wajahat Husain : Resolution I reads as follows :—

- "(a) that the powers conferred by the Act on the court should be mandatory instead of being discretionary as at present ;
 - (b) that the Act should apply to a transaction when it appears to the court (i) that the rate of interest is excessive, or (ii) that the transaction was substantially unfair ;
 - (c) that the amount of interest recoverable in any suit should not—
 - (i) exceed the amount of outstanding principal loan, excluding previous payments on account of interest made before the institution of the suit, where the loan was advanced before the commencement of the amending Act ; and
 - (ii) exceed the amount of principal loan, including previous payments on account of interest made before the institution of the suit, where the loan was advanced after the commencement of the amending Act ;
 - (d) that the rate of interest should be deemed excessive if it exceeds—
 - (i) in the case of loans advanced on the security of immoveable property, or pledge of moveable property—8 per cent. ;
 - (ii) in the case of all other loans—15 per cent. ;
- Provided that where a creditor appears to have taken an unusual risk the rate of interest may be higher but should in no circumstances exceed—
- (i) in the case of loans advanced on the security of immoveable property, or pledge of moveable property—11 per cent. ; and
 - (ii) in all other cases—18 per cent. "

Chairman : There are a number of amendments to this resolution, some in connection with (a), some in connection with (c) and some in connection with (d). So we had better take (a) first. Sub-paragraph (a) reads as follows :—

- "(a) that the powers conferred by the Act on the court should be mandatory instead of being discretionary as at present,"

Mr. Anand Sarup proposes to delete that sub-paragraph.

Lala Anand Sarup: My object in moving this amendment is that we should not disbelieve our courts specially judicial courts which are considered as just and reasonable. Hence we should not bind them down by the change of the word "may" into "shall". They should be left to exercise their discretion. I find that the courts at present exercise their powers to the full extent and when they give decrees they consider every point and exercise their powers which are at present given under the law. So I think it should be left to the discretion of the courts and it should not be binding on them.

Dr. Dubey: I second the amendment that has been moved by my learned friend. I would like to offer a few remarks on that. When the question was referred to the High Court by the Banking Inquiry Committee the present Chief Justice spoke about the Usurious Loans Act in the following terms:—

"I do not at all agree that the Usurious Loans Act of 1918 is a dead letter in these provinces. In several cases which have come within my notice, the lower courts have applied the provisions of the Act and given relief from extortionate demands. The real reason why the Act has not been availed of in most cases is that the limitation on registered mortgage-deed executed after 1918 has not yet expired. The success of the Act will depend on the view which the courts will take as to what amounts to an unconscionable bargain or an excessive rate of interest. If rates amounting to Re. 1-8-0 per mensem, compound interest, or even Rs. 2 per mensem, simple interest, are to be treated as reasonable, the Act will certainly remain an almost useless piece of legislation."

Justice Sir Sulaiman goes on to say:—

"In my opinion the principal defect of the Usurious Loans Act is that the legislature has not given any lead to the courts as to the rate of interest which may be presumed to be excessive. The defect would have been removed if there had been a proviso that any rates exceeding Re. 1-8-0 per mensem should be presumed to be excessive unless the creditor satisfies the court that in the circumstances it was not so." Sir, it is exactly on these lines that we have passed a resolution on a previous occasion that the rate of interest beyond 18 per cent.—that is exactly what Sir S. Sulaiman says—should be regarded as excessive. I do not think that there can be a more competent authority to speak on the subject than Justice Sir S. Sulaiman himself. In the circumstances as such a distinguished authority has described them, I do not think that it is necessary on our part to retain clause (1) as it is here in the resolution.

Maulvi Fasih-ud-din: Sir, the speech of the gentleman who has just spoken on the subject is mostly irrelevant in connection with the question that is before us. The question before us is whether the courts should be given a discretion to make use of

this provision of the Act or whether this provision should be mandatory. That is the whole question before us. We are not discussing at this time the maximum amount of the rate of interest that ought to be fixed or any other matters like that. I submit, Sir, that if we were not to make the law mandatory on the subject, the very object for which this law is meant will be thoroughly frustrated. As a matter of principle the law is meant for restricting the discretion of courts, and of individual judges and the law is meant for laying down set and definite rules and regulations for the guidance of the courts. The remarks of Justice Sulaiman which have been read just now by the previous speaker show that the chief defect of the law is that it does not give a lead to the courts—a definite lead to the courts. For that reason I think it is very necessary that the provisions of this section should be made mandatory. Sir, I am sorry that the thesis which I have written is not ready for the use of the honourable members of this committee. It would have shown that the judgments which have been delivered in connection with this law are of a very heterogeneous character. Some judges have held that, howsoever penal the rate of interest may be, that should be allowed by the court so long as the fact that the transaction was unfair and unconscionable is not proved. They have, therefore, allowed 75 per cent. and even 150 per cent. interest whenever the debtor has not been able to prove that the original transaction was unfair. Other judges have held that the very fact that the rate of interest is excessive is a presumption that the transaction was unfair, and so on. Some judges have held that 75 per cent. rate of interest is reasonable and not excessive; others have held that even 24 per cent. rate of interest was excessive. All this is due to the fact that the law is so indefinite and so ambiguous in character and if we were to leave everything again to the sweet will of the individual judges, the result will be that the law will become a nullity. It is for this reason that I think to begin with we must make the provisions of this law mandatory and not to leave it to the discretion of the individual courts. We know, Sir, that judges are human beings. Each of them has got his own temperament and that nature has more than one mould. It is for this reason that the law should circumscribe and limit the discretion of individual courts. So if there is to be no defect in the law then the law must be mandatory and not permissible.

Babu Awadh Bihari Lal: Sir, the remarks of Justice Sir Sulaiman which have just been read out are the chief reasons for us to make this amendment in law. Formerly the law was discretionary. If the court thought that the interest charged was excessive and that there was some fraud in the transaction or some unfairness in the transaction then they could reopen it. There was no discretion as to what rate of interest should be considered excessive and what would not, this discretion was given, but here we have tried to define what are the fair rates of interest and what are the excessive rates of interest. We have defined how the interest should not exceed the principal and we have provided that transactions are to be reopened in both cases if the rate of interest

is excessive or if there is any unfairness in the transaction. One does not depend on the other. All these ambiguities having been removed and the law made quite precise, there is no reason to leave it to the discretion of the courts. Discretion was necessary when these things were not defined. This change will leave no discretion to the court. If the rate of interest in the case of mortgages is more than 9 per cent. and in the case of immovable property it is more than 12 per cent. then the court will reopen the transaction. If there is any unfairness alleged by the parties, then the court shall reopen it. So there is no room for leaving discretion now. I think this is a necessary change after the amendment that we have made in the matter of interest.

Mr. Sah: In supporting the amendment of my honourable friend I only want to mention that this provision of making it mandatory will create a lot of confusion. It will mean that the court will have to go into the question even if the defendant does not allege that the transaction was unconscionable or the rate of interest is excessive. As a matter of fact, courts have got discretionary powers and can go into the question even if the rates of interest have been defined and in supporting the amendment I will read the last paragraph of Justice Sir Sulaiman's remarks. He says, "As the Usurious Loans Act has not yet been sufficiently tried and sufficient time has not lapsed, I would leave it alone for the time being."

Dr. Mukerjee: I think that usury is a long-felt evil and that it has not yet been tackled by the discretionary powers of the court. As courts are also human, we cannot face the situation effectively unless we provide for a mandate rather than for a discretion.

Lala Anand Sarup: I have nothing more to add to what I have already said before. I still hold the same opinion that the courts should be left discretionary power and they should be allowed to have a free discretion. There is no reason that they should be bound down that they should do according to these rules. Of course they have to abide by the rules which are framed under the Usurious Loans Act and we should leave discretionary powers to them. I would, therefore, like to have the word "may" as it is in the present law.

Chairman: Mr. Anand Sarup has moved an amendment to delete the first sub-paragraph of the resolution, which provides that the powers conferred by the Act on the court should be mandatory instead of being discretionary as at present.

(The amendment was put and lost.)

Hafiz Hidayat Husain: Sir, I beg to move that in clause (b) for the words "when it appears to the court" the following words be substituted "in which it is alleged by the debtor". My reason for asking for the acceptance of this amendment is that it will be in consonance with the scheme of the Act if due weight is given to the allegations made by the defendant. My experience at the bar is that this Act of 1918 has failed in its operation merely because of bad drafting

than anything else. The only point that has been urged is that the rate of interest is excessive. Although it has been made now obligatory on the courts to reopen the transaction and apply mandatory provisions of the Act of 1918, my fear is that the Act may remain still inoperative unless and until in the pleading the courts are to be distinctly in possession of all those facts which may enable the application of this Act. The wording as it is now only says "where it appears to the court". In the Act it is laid down that, notwithstanding anything in the Usurious Loans Act which repeals the Act of 1855 where in any suit to which this Act applies whether heard *ex parte* or otherwise the court has reason to believe that the interest is excessive and that the transaction was as between the parties thereof substantially unfair, the court may exercise any of the following powers. We have here when the debtor alleges in the written statement that the rate of interest is excessive and that the transaction was as between the parties substantially unfair, then the operation of this section will come in, unless and until it is distinctly alleged by the debtor himself that the operation of the Act of 1918 should be brought in. My submission is that the court will not be justified even with that object to bring this Act into operation. It is not like the Limitation Act where under section 4 of that Act the court has got to apply the provision of the law of limitation whether the debtor alleges or does not allege. But here one must allege that this Act should apply. This Act of 1918 is practically one section and in this section of the Act the circumstances in which courts will be justified in applying the law have been distinctly defined and enumerated. It is stated what is to be the excessive rate of interest, and so on.

Dr. Dubey: On a point of order, Sir. May I know, Sir, what the amendment of the Khan Bahadur Sahib is? We have not got it in these papers.

Chairman: If you will turn to (b) of this clause, you will find that the clause says that the Act should apply to the transaction when it appears to the court, and so on. Instead of the words "when it appears to the court" he wishes to substitute "when it is alleged by the debtor". No notice was given of the amendment, but I have accepted his amendment.

Dr. Dubey: We had better finish the printed matter first.

Chairman: Anyhow, I have accepted it.

Dr. Dubey: Therefore, Sir, my submission is that although it will have to be re-drafted by an expert drafter, but still I think it would be quite relevant if the committee gave indications of its mind as to the points which ought to be incorporated in the re-drafting. Due weight should be given to the allegations of the debtor like that.

Mr. Sah: I second this.

Mr. Brijnandan Lal: I rise to oppose the amendment of Khan Bahadur Hafiz Hidayat Husain I am sure it will cause very great

hardship to some of the debtors. Suppose a suit relates to a sum of Rs. 10,000 and the defendant is unable to pay the lawyer's fee and he decides to defend that case himself. In that case he will not be able to know the implications. So if we substitute the words "when it is alleged by the debtor" it would mean great hardship to the defendant as he will have to engage an expert lawyer to defend his case and he will not be able to fight out his own case.

Maulvi Fasih-ud-din: Sir, I am afraid I cannot agree to the amendment that has been proposed and I agree with the views of the previous speaker, for the simple reason that the amendment which has been proposed will make the law more strict than what it happens to be at present. I am sorry that I have not brought with me the references of a certain case which I saw only the other day. It is a case of the Allahabad High Court of 1930 decided by Justice Niamatullah and Justice Sen. In that case the defendant happened to be absent for the simple reason that he was too poor to employ a pleader and the case was decided *ex parte*. The rate of interest was 75 per cent. with yearly rests. The court decided that case *ex parte* and come to the conclusion that 75 per cent. rate of interest, compound interest, was excessive and gave occasion to the High Court to interfere in the matter. They reduced the rate to 24 per cent. If we were to accept this amendment then we would take away this discretion from the courts and we would be making the Usurious Loans Act harsher against the debtor than what it happens to be now. So for this reason I think that this amendment should not be allowed.

Hafiz Hidayat Husain: I am afraid, Sir, my friends have not understood either the scheme or the form of my amendment. The scheme of the Act is this. I will just read it out to you. Notwithstanding anything in the Usurious Repeals Act of 1855 where in any suit to which this Act applies were heard *ex parte* or otherwise, for the words "has reason to believe" substitute "where it is alleged by the defendant" that the interest is excessive or where the transaction was as between the parties thereof substantially unfair, the court shall exercise all or any of the following powers, namely, reopen the transaction and the question of the rates of interest, so when it is alleged by the defendant the court will exercise all those powers.

Maulvi Muhammad Obaid-ur-Rahman Khan: If it is an *ex parte* case, then what happens?

Hafiz Hidayat Husain: Why the court should take pains when the defendant does not do so. It is the look-out of the defendant.

Chairman: The amendment is that in clause (b) of the resolution for the words "when it appears to the court" substitute "when it is alleged by the debtor".

(The amendment was put and lost.)

Mr. Sah: My amendment is to omit clause (c) (i) which reads as follows:—

"That the amount of interest recoverable in any suit should not—

(i) exceed the amount of outstanding principal loan, excluding previous payments on account of interest made before the institution of the suit, where the loan was advanced before the commencement of the amending Act;" As a matter of fact this introduction of the law will mean that in future the creditor will take care to recover his loan before the interest amounts to the principal amount itself. There are several cases in which the creditors have not yet filed their suits because of certain considerations.

Maulvi Fasih-ud-din: It is their look-out.

Mr. Sah: I am speaking for the past and not for the future. For future you can make any laws. It is only for the past that I move that this clause should be omitted.

(The amendment was not seconded by anyone so it fell to the ground.)

Chairman: We will not proceed to the consideration of amendments to clause (d). Mr. Sah proposes to add a proviso to clause (d) that in every district a committee should be appointed by the District Judge consisting of one Subordinate Judge, one lawyer and three representatives of the people to fix rates of interest.

Mr. Sah: In moving this amendment I wish to point out that the committee cannot lay down rigid rates of interest for several classes of borrowers and for several classes of transactions, for instance interest of kists must be much higher than on other loans because of the facilities that are given. Then the interest on loans advanced to certain class of persons must be much lower than advances to others. As a matter of fact these recommendations are touching not only the agriculturists but all sorts of people and for this purpose the only thing that we should lay down for the guidance of the courts is the substitution of a committee. In support of my resolution I will quote from the evidence of Mr. Jitendra Nath Roy, Judge, Small Cause Court, Lucknow, before the Banking Enquiry Committee. I asked him a question and it is this. "If a committee is formed in every district to determine the maximum rate of interest, do you think it will be helpful? He replied "It is quite possible it may be helpful. Certain gentlemen of the bar and certain judges may sit together and fix the rate of interest which such and such classes of persons are to pay."

Maulvi Fasih-ud-din: On a point of order, Sir. Is that opinion relevant to the amendment?

Chairman: Yes.

Mr. Sah: The procedure which is laid down in the original recommendation is rather too rigid and it is only in order to make it rather flexible that I have proposed this amendment.

Mr. Rudra: I should like to second it as a general proposition. The fixity of the rate of interest is certainly very difficult and a hard thing to determine. I think there should be flexibility in the rate of interest. There may be circumstances when a rate that we fix may be excessive. So I support the principle of flexibility which is being advocated.

Babū Awadh Bihari Lal: Are you in favour of a committee?

Mr. Rudra: I am in favour of a committee.

Thakur Muneshwar Bakhsh Singh: Sir, I have to oppose this amendment on the ground that when committees are appointed in different districts and they come to certain conclusions and in some districts they fix 20 per cent. and in others they fix 15 per cent. then certainly it will be difficult for the appellate authorities to have all the rates of interest of the different committees which are fixed and no appellate court will be able to administer justice fairly. In these circumstances it is better that one rate should be fixed for the whole province. There should not be many rates of interest. Besides by different rates of interest in different parts of the province, the flow of money will not be even.

Rai Rajeshwari Prasad: I am opposed to this amendment, firstly on the ground that we have already decided this matter in connection with resolution no. 2 of sub-committee no. 1. I would suggest that the rates that have been decided in connection with that resolution should be incorporated in the amendment relating to the Usurious Loans Act and if I have your permission I wish to move a definite resolution to that effect.

Chairman: It is not relevant to this.

Babu Awadh Bihari Lal: I quite agree with the previous speaker. This committee has fixed rates of interest in connection with resolution no. 2, both minimum and maximum rates. They are slightly different from the rates put down here . . .

Chairman: We shall get to the actual rates afterwards. At present we are dealing with the amendment.

Babu Awadh Bihari Lal: The idea of fixing these rates is that both the creditor and the debtor should know what rate would be accepted by courts and what would be considered as excessive and for that very purpose it is necessary that the rates ought to be fixed for all times so that every lender and every borrower may know where he stands. If these rates are fluctuating from year to year and place to place there would be no certainty in these loan transactions and that is why it is necessary to incorporate these rates in the Usurious Loans Act; so that money-lenders, borrowers and courts will all know which are fair rates and where the transaction ought to be reopened on the ground of excessive rates. I think it would be a very unfair procedure to set up committees with all their whims and caprices in every district to fix the rates without any guiding principle either on the basis of bank rates or anything else.

Dr. Mukerjee: There will be a great difficulty regarding the fixation of the maximum rate of interest which you will have to face before long when this Land Alienation Act has been passed. Sir, the supply and flow of capital be different for instance in Bulandshahr than the supply and flow in the eastern districts and similarly the conditions of loan transactions on mortgage of land and the facilities of credit generally will be far different in those parts of the province where the Land Alienation Act will be in operation. In such circumstances I think there will be difficulty if we fix rigidly the maximum rate of interest unless we fix it very high. In other words you should consider whether the rates of interest as recommended in the resolution are quite adequate. There would be a difference in the conditions of supply and requirements of agricultural capital in different parts of the province. When we are determining the minimum and maximum rates of interest we have to consider the entire range of the economic circumstances.

Mr. Brijnandan Lal: I am afraid if this amendment is accepted it will create a lot of difficulty. Suppose the committee meets in December and decides the rate of interest at 12 annas and when it again meets it decides that it should be Re. 1-2-0, it will be difficult for money-lenders to advance their money if they are not certain what they are going to get. In the second place interest will differ from district to district. In Farrukhabad the rate of interest may be 15 annas and in Cawnpore Re 1-2-0, the result will be that the Farrukhabad men will send their money to Cawnpore, and after some time the committee may meet and decide to reduce the rate of interest still further, then the position of money-lenders will be very uncertain. I therefore think that this amendment should be rejected.

Maulvi Fasih-ud-din: I am rather surprised at this amendment being pressed. Yesterday we all agreed to fix certain rates in connection with another proposal about legislation and none of us raised any objection that the scheme of fixing rates was bad or objectionable. Today I find some gentlemen who had agreed to the scheme of fixing rates, coming forward with all sorts of arguments against the fixation of the rates of interest. I may for the information of my colleagues say that during the days of the East India Company from 1772 down to 1855 the rate of interest used to be fixed from time to time by various regulations till all the usury laws were repealed by Act XXVIII of 1855 which was a prototype of the English Act of 1854. So when the fixation of the rates of interest did not cause any havoc in the country for about a century during the days of the East India Company rule, I think there is no need to be nervous about it now and it is due to the non-fixation of the maximum rates that has been the chief bed-rock against which the Usurious Loans Act of 1918 has been ship-wrecked. That is the opinion of many of the judges of the various High Courts which I need not quote on this occasion. I think it but fair for us to follow the plan which we adopted yesterday almost unanimously.

Mr. Sah: It is said that we have fixed minimum and maximum rates of interest yesterday. That was in connection with resolution no. 2. In that we were dealing with the agriculturist. Now in this resolution we are dealing with the public at large and this will affect every one of them. The second thing that is said is that it will create difficulties for the appellate authority. I do not see any difficulty in it because the resolutions and recommendations of this committee will be before the appellate authority and they can decide accordingly. Moreover, we cannot fix a general rate for the whole province. The rates must differ from man to man and from place to place, for example in Kumau we have got 12 per cent. rate and that is supposed to be a reasonable rate here but in the adjoining Bhabar 18 per cent. is the rate and as we go down it rises to 24 per cent. As regards the difficulty of the committee working, we have got the example of the Civil Procedure Committee of the High Court. I do not think there is any reason why a committee of this sort should not sit up together and decide as regards the rates that should be fixed for different people and for different classes of persons. Of course by legislation we cannot fix any rates but only for the guidance of courts we can fix.

Chairman: The amendment is to substitute a committee to fix rates of interest on the lines suggested in paragraph (d) of the resolution.

(The amendment was put and lost.)

Mr. Sah: I have got an amendment. It is no. 3. I am very sorry I could not make it clear. This proviso ought to be put after clause (c). It would be a proviso to the clause introducing the law of *Dam dupat*.

A voice: Is it on the printed programme?

Chairman: If you will turn to (c) you will observe that it is proposed to have two forms of *dam dupat*, one for old loans and one for new loans. To the whole of that Mr. Sah is moving an amendment to the following effect:—

“Provided that this provision shall not apply to—

- (i) existing debts,
- (ii) a running account,
- (iii) where interest charged is below 9 per cent.
- (iv) where the amount was advanced more than ten years prior to the passing of the Act.”

I think his meaning is now clear.

Mr. Sah: In moving this amendment I beg to say that it applies to four conditions. The first is that it shall not apply to existing debts. The second is that it shall not apply to a running account. The third is that it will not apply where interest charged is below 9 per cent. and the fourth is where the amount was advanced more than ten years prior to the passing of the Act. The whole object in moving this amendment is that at present the system of *jijmani* is prevalent in these parts. There is one money-lender and one debtor. The result of the introduction of this

measure would be that as soon as the interest has reached the principal amount that was advanced, the result will be that the money-lender will ask the debtor to clear off his account and then go to another person. In the case of running account the difficulty will be to determine the amount because after a part of the money is paid or the whole of it is paid, the borrower borrows again and the result would be that it would be very difficult to fix what is the principal amount that was advanced; it is a sort of cash credit. As soon as the interest reaches the maximum of the cash credit that is advanced, the result will be that the creditor will have to ask the borrower to find out another *sahukar*. For this reason I move that this proviso to the proposed amendment be added.

Mr. Habib-ullah: I would like to put a question before I second or oppose the amendment. Is this amendment to be considered as a whole or one by one because every one of them is separate?

Chairman: It is proposed as a whole.

Mr. Sah: It may be considered in parts.

Chairman: At present it is considered as a whole.

Mr. Brijnandan Lal: Votes may be taken separately for each item. My submission is that let it be discussed together and when it is being voted upon let each item be voted upon separately.

Lala Anand Sarup: I second the amendment.

Babu Awadh Bihari Lal: We discussed at length this proposition of *dam dupat* before. Regarding this resolution we have divided it into two sections, one relates to the old debts and the other to future debts. In regard to old debts we provide that the amount of interest paid previous to the suit shall not be considered and only the amount of principal sued for and the amount of interest sued for shall be considered and the interest to be decreed shall not exceed the principal sued for, so I do not think there remains any ambiguity in interpreting about old loans. The first part of (c)(i) runs thus:—“That the amount of interest recoverable in any suit should not exceed the amount of outstanding principal loan, excluding previous payments on account of interest made before the institution of the suit, where the loan was advanced before the commencement of the amending Act. I think that the apprehensions of my friend are unfounded. For instance in a running account it is very doubtful what the result would be. If sums have been advanced from time to time and payments have been made from time to time and at the end of the period when he goes to sue he finds that the principal outstanding is Rs. 250 and the interest outstanding is Rs. 562, then the court would not consider what previous payments have been made on account of interest, but would decree Rs. 250 for principal and Rs. 250 for interest. That is the amendment. Just as I said yesterday if any lender advances money at the rate of 6½ per cent. as Government does and in the course of 16 or 17 years the amount of

interest becomes equal in amount to the principal advanced, then further interest would cease to run and in going to the court he will get a decree only for interest up to the extent of the principal amount. So I do not think any hardship would be created in the case of old loans with this provision which the sub-committee has made. As regards new loans every creditor would know that he will not get more than equal to the amount of principal and for this there is no objection. The objection relates only to old loans. I think it is based more on a misunderstanding of these provisions than on any actual difficulty.

Lala Anand Sarup: What will be the case with running account?

Babu Awadh Bihari Lal: As I have explained if a creditor goes to sue on account of running debt that Rs. 250 is due as principal and Rs. 562 as interest, then the court without regard to the previous payments that have been made on account of interest would decree Rs. 250 for principal and Rs. 250 for interest.

Lala Anand Sarup: This is for old loans but what about new.

Babu Awadh Bihari Lal: For new loans interest will cease to run as soon as it has reached equal to the principal and the creditor will have to sue at that time. If he will delay he foregoes interest.

Dr. Dubey: The whole of this question was discussed with regard to the regulation of interest when we passed resolution no. II. If you permit me at this stage I may move a substantial amendment asking that section (d) of resolution I of sub-committee II might be adapted in accordance with resolution no. II that we have already passed yesterday.

Chairman: I cannot allow that because this applies to everybody and that applies to the agriculturist.

Mr. Sah: Sir, it has been said that there would be no hardship on account of this provision and an illustration has been given that supposing a lender has to recover Rs. 250 on account of principal and Rs. 562 on account of interest which he allowed the debtor to keep with him and which he has not recovered from him, the result would be that he will get only Rs. 250 principal and Rs. 250 as interest. He will have to suffer a loss of Rs. 312 or something like that. Would it not be a great hardship to the poor creditor? Then there is question as regards the running account. As far as I can say I understand the running account all right. Suppose I borrow on cash credit. The limit is Rs. 1,000. I pay part of it. Then I borrow and go on borrowing. The transaction will last for years and years. It may last for 50 or 60 years. As a matter of fact we do not want to lose our customers. We do not even want to lose those from whom we borrow. For instance there may be joint stock banks. If you will examine their accounts, you will find that we have paid them even now much more on account of interest than the amount of cash credit that we have got with them. This would cause an unusual hardship. This would mean that at the end of five or six years we will have to seek for

another joint stock bank to advance us and the debtor will have to seek another borrower and it is only in order to provide for this that I have moved this resolution.

Chairman: Mr. Sah's amendment is. Add the following proviso:—

“Provided that this provision shall not apply to—

- (i) existing debts,
- (ii) a running account,
- (iii) where interest charged is below nine per cent.
- (iv) where the amount was advanced more than ten years prior to the passing of the Act.”

(The amendment was put and lost.)

Chairman: Mr. Anand Sarup has got an amendment with regard to figures. The first is in paragraph (d) (i) where eight per cent. is fixed as the rate of interest in the case of secured loans. He would substitute 12 per cent.

Lala Anand Sarup: I want to move that the rates which were settled the other day, i.e., nine per cent. in place of eight per cent. and 12 per cent. in place of 11 be substituted. I withdraw my amendment as regards the substitution of 24 per cent. in place of 15 per cent.

Babu Awadh Bihari Lal: I second this amendment.

Lala Anand Sarup. In resolution II we decided that the interest should be compound, so it should be compound interest here also.

Chairman: I think we can leave it to the drafting committee to get that right. Is anybody opposed to this substitution?

(The amendment was put and carried.)

Chairman: Mr. Anand Sarup proposes to add a proviso at the end and it is this—

“Provided that this provision shall not apply to the loans advanced seven years prior to the passing of this Act.”

Lala Anand Sarup: I beg to move that the proviso “provided that this provision shall not apply to the loans advanced seven years prior to the passing of this Act” be added at the end. In moving this amendment I beg to say that I think that we should put down some limit within which cases should be contested and I put seven years as the figure for the acceptance of the House. If no limit is put I am afraid cases, however old they may be, would be contested and opened and there will be very great difficulty if litigation would increase to a great length. The civil court expenses are very great and they are contested to a great length. There is a saying:—

Jo jita so hara aur jo hara so mara.

So I say that we should not increase litigation and we should provide that only seven years should be put down so that there will not be litigation for past accounts.

Mr. Sah: I second the amendment.

Babu Awadh Bihari Lal: I think I must make it plain that the Usurious Loans Act

is not being enacted afresh. We are only removing the ambiguities which are contained in it. There is a provision in that Act that where the rate of interest is excessive the case could be re-opened and the whole transaction sifted from the beginning. We are making it clear what the excessive rates of interest would be. We are fixing them here for the guidance of courts, what we consider to be fair and excessive rates. So I think if we say seven years prior to the passing of this Act that would create hardship. If we restrict the application of the Usurious Loans Act only to new transactions, the whole object would be frustrated. It is meant primarily to relate to old loans which we want to be cleared once for all and to put the agriculturist on a new footing. I have therefore to oppose this amendment.

Mr. Habib-ullah: I beg to oppose the amendment which my banker landlord has moved. He has made an attempt to wipe out the existing provisions of the Usurious Loans Act. In the existing provisions there is no limit and the court may exercise discretionary powers in the rate of interest where they are 10 years or 15 years old. I think the amendment as it is really absurd.

Lala Anand Sarup: I think it is open to us to discuss whether the provisions laid down in the Usurious Loans Act are good or not and I think we are at liberty to discuss these points and I still urge upon the House that some period should be fixed and I say that seven years is a good period and those cases which are above seven years should not be contested.

Chairman: The amendment is that a fresh proviso as follows be added at the end:

"Provided that this provision shall not apply to the loans advanced seven years prior to the passing of this Act."

(The amendment was put and lost.)

Chairman: I now put the main resolution which has been amended in respect to sub-clause (1) of the proviso to that clause where 11 per cent. has been raised to 12 per cent.

(The resolution was put and carried un-animously.)

Chairman: For the most part there are no further amendments. There are one or two. It is open to the members to speak on them. But the time is getting late and I think the speeches should now be reduced to a limit of five minutes.

RESOLUTION II.

Mr. Wajahat Husain: Resolution no. II reads as follows:—"That all usufructuary mortgages of land (excluding house property) should bear on the face of the mortgage-deed the date of the final extinction of the mortgage-deed and that the date should be within twenty years from the date on which the possession of the mortgaged property is conveyed:

Provided that the amount of principal loan does not exceed one thousand rupees."

Mr. Habib-ullah: Has not this resolution been discussed?

Mr. Wajahat Husain: It was discussed in the sub-committee.

(The resolution was put and carried un-animously.)

RESOLUTION III.

Mr. Wajahat Husain: Resolution no. III reads as follows:—"That provision should be made for the summary redemption of a mortgage on deposit by the mortgagor of the amount remaining due on the mortgage, by amending section 83 of the Transfer of Property Act on the lines of the draft given below:—"

Draft amendment of section 83, Transfer of Property Act.

"At the end of the first paragraph add 'and file an application verified in manner prescribed by law for the verification of plaints stating the particulars of the mortgage and praying for its redemption.'"

For the second paragraph substitute the following:—

- (2) The court shall thereupon issue a notice to the mortgagee to show cause on a day to be fixed in the notice why redemption should not be allowed.

If the mortgagee appears and accepts the deposit in full discharge of his mortgage the court shall order that the mortgage be redeemed and the money deposited by the applicant be paid to the mortgagee.

- (3) If on the date fixed the applicant does not appear and the mortgagee does not accept the deposit in full discharge of the mortgage, the court shall reject the application.

- (4) If on the date fixed or any subsequent date to which the proceedings may have been postponed, the applicant appears and the mortgagee does not appear in spite of service of notice on him, or the mortgagee appears and does not accept the money deposited by the applicant in full discharge of his mortgage or objects to redemption of the mortgage on any other ground, the court shall hold summary inquiry to determine whether the applicant is entitled to redeem the mortgage and whether the money deposited by him is sufficient. If it finds that the applicant is not entitled to redeem, it shall reject the application. If it finds that the applicant is entitled to redeem but must pay a larger amount than that deposited by him, it shall order the applicant to deposit the balance within a fixed period. If the applicant fails to deposit the said balance the court shall reject his application. If the court finds that the applicant is entitled to redeem and that the amount deposited by him was sufficient or that if it was not sufficient he has deposited the balance within the time fixed by the court, the

court shall order that the mortgage be redeemed and the money deposited by the applicant be paid to the mortgagee.

- (5) In all cases in which the court orders redemption under this section it shall, if necessary, also put the applicant in possession of the mortgaged property.
- (6) When the application is rejected the court shall return to the applicant the money deposited by him.
- (7) The party against whom a final order is passed under this section may institute a regular suit to enforce his right in respect of the mortgage, but subject to the result of such suit, if any, the order shall be conclusive.
- (8) The words "Mortgagee" in this section includes the representatives of the original mortgagee.

Chairman: There are no amendments to this resolution. Does anybody wish to speak on this resolution?

Several voices: We all agree to it.

Mr. Habib-ullah: As I was not on that sub-committee, so I want to say something on this. I understand that the only principle involved in this resolution is to give facility for the redemption of mortgage on a plain application instead of bringing in a redemption suit. But the section although it starts with this presumption yet litigation begins when the parties do not agree and there is a sort of summary trial. I quite agree with so much that the redemption may be made permissible on a plain application, but if it does not end there, the suit should be dismissed.

(The resolution was put and carried.)

RESOLUTION IV.

Chairman: Resolution no. IV reads as follows:—

"That the sub-committee recommends to Government to be pleased to reduce to half the cost of publication in the official gazette of all notices under the Provincial Insolvency Act."

The resolution was put and carried unanimously.

RESOLUTION V.

Chairman: Resolution no. V runs as follows:—

"That the proposals of the sub-committee for the amendment of the Usurious Loans Act should be given effect to by legislation in the Provincial instead of the Central Legislature."

(Resolution no. V was put and carried unanimously.)

Sub-Committee III.

RESOLUTION I.

Chairman: The first resolution of sub-committee III is as follows:—

"The sub-committee recommend that primary Land Mortgage Societies on the Ghazipur

model be started at an early date in suitable areas."

Hafiz Hidayat Husain: What is the Ghazipur model?

A voice: They have published the model of it somewhere. It is on page 12 of the agenda.

Mr. Sah: May I request you kindly to ask Mr. Kharegat to explain the scheme of District Land Mortgage Bank? As it is not given here, it will be much helpful to other members. Of course I was on that sub-committee, but it would be much better if the scheme is explained to other members of the Committee.

Chairman: If Mr. Kharegat is willing, the Committee will be pleased to hear him.

Mr. Kharegat: I would like to know what is it that the members want me to explain.

Maulvi Muhammad Obaidur-Rahman Khan: The Ghazipur model.

Mr. Kharegat: The general idea is simply this that certain zamindars join together and form a society of their own. Then they raise money either from the public or from other banks in the district or even outside the district on condition that the property belonging to the members is mortgaged to the bank.

Maulvi Fasih-ud-din: Which bank?

Mr. Kharegat: To the bank which lends to the society. The member mortgages to his society and the society in its turn makes a re-transfer of the mortgage to the lending bank if required. The money borrowed is then advanced to the members so that each member gets as much money as he wants either to redeem his own debts or to undertake any work of improvement that he may like.

Dr. Dubey: For how long?

Mr. Kharegat: The usual term for which money is advanced at present in the Ghazipur bank is about 20 years, but it varies. In some cases it may be ten years; in some cases it may be 15 years. The period is made to suit the amount that is borrowed and the repaying capacity of the borrower, so that the money is repaid every year with interest in equated instalments; a fixed sum is repaid every year so that within the time that has been fixed the whole amount is repaid. When the amount is repaid the mortgage is automatically extinguished and he is free from debt.

Dr. Dubey: Does that society give short term loans and also long term loans?

Mr. Kharegat: It is largely for long term loans.

Maulvi Muhammad Obaidur-Rahman Khan: May I know whether societies have been successful in Ghazipur. How much money they have been able to collect there. How far they have given relief to the indebted tenants and zamindars.

Mr. Kharegat: There is only one society. There are not several. The amount of money it has lent so far is about 20,000 or 25,000. The society was started about three

years ago and the last annual report of the society showed that in spite of depression there was not a single case of arrears.

Mr. Brijnandan Lal: Another point which probably Mr. Kharegat has failed to mention is this that a big zamindar might also get money from these land mortgage banks, if he becomes a shareholder of that bank.

Mr. Kharegat: We have not given to the big zamindars.

Mr. Brijnandan Lal: I want to know whether it is the usufructuary mortgage on which the society lends principally or is it simple mortgage?

Mr. Kharegat: It is only simple mortgage.

Maulvi Fasih-ud-din: Supposing he does not pay instalments?

Mr. Kharegat: The society would have a right of foreclosure or it can obtain a decree and have the decree executed in the ordinary course.

Pandit Gursewak Singh Upadhyas: There are sureties also. Without sureties money is not advanced.

Mr. Habib-ullah: I do not see any difference between this society and other banking institutions of the province.

Dr. Mukerjee: The difference between a land mortgage bank and a co-operative society is that the land mortgage provides loans for long term credit. It provides money for the improvement of land or for the redemption of old debts, whereas the co-operative society supplies short term loans. I may also say that land mortgage banks have proved very successful in the Punjab and some mortgage banks are being started in Bombay. We should set up some land mortgage banks in suitable areas in our Province.

Chairman: Is it not true to say that the ordinary bank is very unwise to lend on land at all?

Mr. Sah: Of course that is quite true. The commercial bank would not give loan on long term credit and against land. The main reason of the failure of the Upper India Bank was that they gave too much of loan on land. This is a special bank for a special purpose for which we require it.

Maulvi Fasih-ud-din: Then the societies borrow from banks and lend out and charge higher rates of interest?

Mr. Kharegat: The rate of interest charged in Ghazipur from borrowers is 9 per cent. and the society itself borrows at 7 or 7½ per cent. from the district bank.

Maulvi Fasih-ud-din: I presume the society borrows for long term?

Mr. Kharegat: At present the society has got a certain amount of deposits on five years' notice and the rest has been borrowed from the District Co-operative bank which the bank has allowed it to repay at any time it likes up to 20 years.

Pandit Gursewak Singh Upadhyas: In the form of cash credit.

Chairman: But the District Bank cannot claim payment before 20 years.

Mr. Kharegat: No.

Mr. Sah: The main difficulty is as regards the financing of societies on long term credit. It is only in the case of Ghazipur that it has been allowed. It is not the function of the District Bank to lend on long term. For this purpose we have provided a Provincial Land Mortgage Bank, which will raise money on debentures and it will advance money directly to big zamindars and indirectly to small zamindars.

Chairman: We might proceed to discuss the resolutions.

(The resolution was put and carried.)

RESOLUTION II.

Chairman: Resolution II runs as follows:—

“That steps be taken to organise a Land Mortgage Bank for the whole province on the lines given in the draft scheme; and for this purpose a suitable prospectus be issued, and byelaws framed.”

(The resolution was put and carried.)

RESOLUTION III.

Chairman: Resolution III reads as follows:—

“That necessary legislation be undertaken for (a) permitting expropriary and occupancy tenants to mortgage their holdings to the Land Mortgage Societies for a period not exceeding 25 years, the latter having the right to sub-let the holding; and (b) given effect to the recommendation for the establishment of a Land Mortgage Bank, if necessary.”

Part (a) and (b) had better be taken up separately as Dr. Mukerjee has proposed an amendment.

Dr. Mukerjee: As the Committee did not see eye to eye with me with regard to the transferability of the occupancy tenure to a land mortgage bank, I think it would be inappropriate for me to press this amendment.

Mr. Sah: May I explain this point as regards 25 years. Here we have got a recommendation of 25 years whereas in resolution no. 12 of sub-committee I we have given five years. As a matter of fact if the period of mortgage is limited to five years, it will mean that the land mortgage bank will not be able to lend money because five years is too short a period. The land mortgage bank is an institution which has to provide long term credit. Moreover for the tenant also it would be very difficult to repay in such a short time. The result will be that he will have to go from the land mortgage bank to the co-operative society, from the co-operative society to the village money-lender and from the money-lender God knows where.

Chairman: May I interrupt you for a moment. So far as I read resolution no. 2. There is no limit to the length of mortgage. The only point was that the bank in the case of foreclosure was not to remain in possession for more than five years.

Mr. Sah: You contemplate the bank to remain in possession for 25 years. Supposing a person has borrowed for 20 years and makes a default after five years. The result will be that the bank will remain in possession for 15 years. That is the whole difficulty. Another point which has created a bit of confusion is this. The bank is going to lend for 21 years and here we have given a right to mortgage for 25 years. The reason for this difference of four years is that there might be certain cases when a tenant would make default in the last three or four years, and after the lapse of the period of 21 years the bank must quit the property. That is why the period of 25 years has been introduced, so that if there is any default the bank may be able to recover its money.

Maulvi Muhammad Obaid-ur-Rahman Khan: Sir, I think it will not be advisable to grant such a long period for mortgages. Only a few minutes ago I was opposed to the period of three seasons, as it was too short but in this case I am very strongly opposed to a period like 25 years. So far as I know a zamindar generally can mortgage his zamindari only for 20 years, and the arguments which the learned Professor of Economics has put forward only a short time ago are quite pertinent and they are very appropriate. I think it will not be useful and it would not be quite wise on our part to pass this resolution as it stands. At least I cannot be a party to it because the period is very long and the tenant might die in that time. He may not remain a statutory tenant and his heir is only there for five years. An occupancy tenant may die heirless and then he will not have a son to inherit that land, but still it will remain mortgaged with the bank. I am therefore opposed to this resolution as it stands.

Dr. Mukerjee: I would like to assure my friends here that the land mortgage society is a thing quite different from an ordinary village banker for the land mortgage bank is not out either to exploit the weakness of the tenant or to make business. The land mortgage society advances money to small zamindars in the first place for the purpose of making improvements on the land, or introducing improved methods of cultivation, in the second place for the redemption of old debts and also it will advance money to occupancy tenants for the same purpose. Now there will be sureties. They would see that the money advanced by the land mortgage society is spent for the purpose for which such money has been advanced. Then again you have not given to the land mortgage society the right to sell the holding which is mortgaged to it by the occupancy tenant. The contention here is this that the period of 25 years which you may take as a period of apprenticeship, is a period in which the occupancy tenant tries to make permanent improvements on the land under the direct supervision of the land mortgage society and also the sureties through whom the money has been advanced. I contend, Sir.

Maulvi Fasih-ud-din: What about life tenant?

Dr. Mukerjee: I am speaking only about the occupancy tenant. Such money will

be advanced mostly to small zamindars, a small portion to the bigger classes of occupancy tenants, and a still smaller proportion, if any, to statutory tenants. So far as the credit agency is concerned, I would like my friend to differentiate between an ordinary sahukar and the land mortgage society.

Hafiz Hidayat Husain: Suppose a statutory tenant or occupancy tenant dies. Who is the person to redeem that?

Mr. Sah: In that case the zamindar gets the land and he would redeem it. He gets it escheat.

Mr. Brijnandan Lal: Why should he?

Mr. Sah: Because he gets the land.

Dr. Mukerjee: I think the answer would be that the land would revert to the zamindar and the bank suffers. But we do not think that such an exigency will arise. The judicious operations of the land mortgage bank will prevent this.

Babu Awadh Bihari Lal: I am sorry I have to oppose this resolution. In the first place I think the land mortgage banks ought to be models for other money-lenders to imitate. They should not usurp better advantages and pose to give advantages to the cultivator. The whole trend of our proposals here has been that expropriary and occupancy tenants should not be able to mortgage or take loans which cannot be redeemed in five years. In resolution no. VII of the first sub-committee we provided that after the passing of the Act the principal amount of a loan recoverable by a single creditor or agriculturist will be limited in the case of expropriary or occupancy tenant to five times the recorded rent and in another resolution no. XII I understand that in the case of foreclosure the bank must vacate the holding after a period of five years from the date of occupation after the foreclosure. The zamindar can only mortgage for 20 years. After 20 years a usufructary mortgage comes to an automatic close. Here in the case of expropriary and occupancy tenant we are providing 25 years' mortgage to the land mortgage banks. I think the land mortgage banks are not meant to give such big loans to expropriary tenants which they cannot repay by the profits for 25 years. What is the good of all these improvements if the tenant cannot enjoy the holding for 25 whole years. That means he makes these improvements for his successors or for his heirs that may come. I do not think that that is the meaning of occupancy or expropriary rights and I do not think what improvements there would require 25 years. I think that loans should be according to the capacity of person taking the loan. In the case of a zamindar it is said that 10 years' revenue is the maximum which he can borrow from any one creditor. In the case of expropriary tenants we are fixing five years yet the term of mortgage is put down as 25 years. It means that the expropriary and occupancy tenants are being given proprietary rights and they can deal with their holdings as they

choose and the zamindar can be deprived of his proprietary right of alienation altogether.

Mr. Brijnandan Lal : Sir, it depends on the Committee whether they want that the benefits of these mortgage banks should be derived by zamindars as well as by tenants. If they want to confine them to zamindars, it is a different matter. But if they want to give the benefits to the tenants also then this provision will be necessary. Land mortgage banks cannot advance money to tenants if they are not given mortgages of their holdings in order to be able to realize the loan. There are a plenty of institutions which advance money on only short terms, namely, co-operative societies, money-lenders, etc. But there are no institutions which advance money to them for long terms. As a matter of fact the object of the land mortgage bank is to enable these people to pay off their old debts. If they are not able to pay off their old debts, how on earth can they get on. The whole scheme of this committee has been to enable landlords and tenant to pay off their old debts and begin on a new slate and get on in life. But if you are not going to enable them to pay off their old debts, I do not see what help you are rendering them. My friend Khan Bahadur Maulvi Muhammad Obaidur-Rahman Khan, for whom I have got the greatest respect, has not been able to understand the implications of this resolution. He thinks that an occupancy tenant who holds for 25 years will be given the rights of the zamindar.

Maulvi Muhammad Obaidur-Rahman Khan : I never said that.

Mr. Brijnandan Lal : That is what you meant. However, if the holding is sub-let to or mortgaged with another tenant, the mortgagee or another tenant may not be able to pay rent at all. If the land mortgage bank takes the mortgage, it will be easier for the zamindar to realize rent. As a matter of fact the rights of the landlords will be safer with the land mortgage banks than with tenants. I think in his zeal to help the zamindars he is injuring the interest of zamindars rather than doing them any good. I think it will be better if this provision is retained and the land mortgage banks are enabled to advance money to occupancy and exproprietary tenants. A point was raised by Hafiz Hidayat Husain. He said that if the tenant and his heir die, then who will redeem the mortgage. In that case the land mortgage bank would suffer. The bank will see whether the tenant has got an heir who is likely to die soon. It is not the concern of the zamindars at all. It will be the concern of the land mortgage bank.

Hafiz Hidayat Husain : My question is if the land mortgage bank redeems the mortgage after the death of the occupancy tenant, then will the land mortgage bank become occupancy tenant against the provisions of section 25 of the Tenancy Act ?

Mr. Brijnandan Lal : It will be a mortgage only for a limited period. After that it would be redeemed *ipso facto*.

Dr. Dubey : Sir, I just want to mention two or three points. As a matter of fact in other countries they make different provisions for the sake of granting long term credit. They advance money to the agriculturists even for a period of 60 years. I know about several continental countries where long term advances are made to cultivators. As a matter of fact if permanent improvements are to be effected on the land long term advances are necessary. Some of the members appear to be under the impression that whenever these mortgages will be made they will be usufructuary. That is not the case. It will not be always necessary for the bank to have these usufructuary mortgages. The term stated there is only mortgage. It might be simple or usufructuary. In the beginning it will be a simple mortgage. Supposing after ten years the bank finds that the borrower is not paying up regularly the money advanced then the bank might apply the penalty provision. For these reasons permanent improvements cannot be effected unless you give long term credits and you allow the banks the necessary machinery for the purpose of realising rent. Another point about it is that even the report of the Royal Commission on Agriculture has suggested that loans should be for a period of 20 years. It is necessary that we ought to make a distinction between short-term and long-term loans. It is suggested that there are agencies for short-term loans which cannot recover their money unless you give such agencies the necessary resources whereby they can make their realisation and consequently I support the original proposition.

Maulvi Muhammad Obaidur-Rahman Khan : I think there is a misunderstanding. As a personal explanation I want to say that I wanted to know when an occupancy tenant dies then it is the right of the zamindar to re-let that land. Now when it is in the possession of the bank how the zamindar will be able to exercise that right ?

Mr. Brijnandan Lal : What right ?

Maulvi Muhammad Obaidur-Rahman Khan : The right to let it to another tenant.

Mr. Kharegat : I will take that point first. First of all the Society will only lend to occupancy or exproprietary tenants and not to statutory tenants under any condition. Then normally it will take care in lending to occupancy tenants to see that they are not such persons who have got no heirs or are likely to die shortly. Thereafter, supposing the man dies leaving no heirs. Therefore the occupancy tenancy has lapsed to the zamindar. What had been mortgaged to the land mortgage society has disappeared, the zamindar enters into possession and the land mortgage bank suffers.

Hafiz Hidayat Husain : Why should he redeem ?

Mr. Kharegat : It is the land mortgage bank which will suffer and not the zamindar. The zamindar will get the land, therefore the zamindar does not suffer in any way.

Maulvi Fasih-ud-din : What is the law on the subject ?

Mr. Kharegat: The law is exactly the same.

Maulvi Fasih-ud-din: If the debtor dies leaving no heir then will the man who possesses the property will be responsible?

Mr. Kharegat: The mortgages will ordinarily be without possession, i.e., a simple mortgage, but supposing the man defaults then the land mortgage bank would be entitled to enter into possession or put in some other tenant as a sub-tenant with the consent of the landlord unless it decides to manage the occupancy tenancy itself. Any way sufficient care would be taken to see that the landlord gets his rent regularly from the land mortgage society. It does not matter whether the land mortgage society itself cultivates or lets the land lie fallow. It will still pay the rent to the zamindar. Therefore the zamindar will not suffer in any way whatsoever. Another point was raised that we are making provision that future loans should be only for five years' rent. That is perfectly true. It will apply to future loans, but what of the past debt, which we want to redeem. In many cases that debt may be ten or twenty years rental. Are we going to debar tenants from the benefits of the bank and say that they are not to redeem their old debts. Of course I have nothing to say about the exact period. If it appears to members here that twenty-five years is too long a period, make it twenty years or fifteen years. About twenty, I consider, will probably be reasonable. On the whole the idea is to give him sufficient time to be able to pay off his debt. If you are going to make the period too short, the only result will be there will be large instalments and the man will immediately fall into default. That is no good; first you help him to pay off his debt and then make him default again! I think that answers almost all the points.

Maulvi Fasih-ud-din: I propose to substitute the figure of "25" by "20".

Mr. Sah: Sir, I want to make an explanation. In case the figure is amended to 20, it will mean that the advance money will be repayable in 15 years and not in 20 years.

Mr. Habib-ullah: May I know whether this provision is only confined to the mortgages by exproprietary tenants with the land mortgage banks?

Mr. Sah: Only to the land mortgage societies.

Babu Awadh Bihari Lal: I second the amendment.

(The amended resolution was put and carried.)

RESOLUTION III(b).

Chairman: Now we come to III(b), "That necessary legislation be undertaken for giving effect to the recommendation for the establishment of a Land Mortgage Bank, if necessary."

Hafiz Hidayat Husain: I have read the resolution as well as the draft carefully and I find there are certain defects which cannot be got over unless and until we have got certain specialists collected together in order to consider on what lines it ought to work. I find

here that the bank should have unlimited capital raised as follows

Further it says that the Government should guarantee a minimum dividend of 5 per cent. on the share capital. I cannot understand how the Government can guarantee a share capital of 5 per cent. when the share capital is unlimited and secondly when the directorate is represented by the Government only partially. My submission is that there are practical difficulties in the draft. An expert committee should be set up in order to consider the draft and give out the lines on which this bank ought to be established.

Chairman: There will have to be an expert Committee. Whether this Committee is prepared to give generally its approval is a question before it.

Mr. Kharegat: May I explain the point which has just been raised? There will be two kinds of capitals. First of all there will be preference shares of a limited amount and then there will be an unlimited number of other shares, and what Government is asked to guarantee is 5 per cent. on the preference shares which are limited.

Mr. Sah: The whole thing is this that there are two classes of shares, one is the (A) class share and these are to be subscribed by the general public for financing the bank and then there are (B) class shares. They are to be contributed by the borrowers themselves on co-operative principles. All that the Government is to do is to guarantee a minimum 5 per cent. dividend on the (B) class shares.

Dr. Mukerjee: The assistance we are asking is not unusual. Such assistance is rendered by all Governments in other countries to such land mortgage banks which give out long term loans. Even in our country such assistance is being rendered today by Bombay and Madras Governments.

Mr. Rudra: Government have guaranteed minimum rates of interest in the case of railways and there is no reason why the Government should not come forward to guarantee dividend in the case of land mortgage banks when it is meant for the principal industry of the country.

Chairman: The resolution before the Committee is: "That necessary legislation be undertaken for giving effect to the recommendation for the establishment of a land mortgage bank, if necessary."

(The resolution was put and adopted.)

RESOLUTION IV.

"That the Sub-Committee record their thanks to Rai Sahib Lala Anand Sarup and Mr. Sah for kindly undertaking to help the establishment of the land mortgage bank by collecting one lakh and half lakh respectively, and suggest that other members of the Committee should also help by subscribing themselves and collecting money for the bank; and request Government to ask the Court of Wards, especially Balrampur, to subscribe to the shares of the bank."

Mr. Sah: As regards this resolution I want to record an explanation. When we agreed to this undertaking we expected that the

Government will guarantee at least the dividend and it is on that condition that we will be able to carry out the undertaking that we gave. I hope this is the view of my friend Rai Sahib Lala Anand Sarup Sahib.

Babu Awadh Bihari Lal: What dividend?

Mr. Sah: The Government should guarantee a minimum dividend of 5 per cent. on the share capital. That is the recommendation of the committee. As regards debentures it is quite a different thing.

Lala Anand Sarup: I do not deserve any thanks. I shall be glad to help the bank as much as I can. I consulted my relatives and friends and they are not going to advance any money to the bank until and unless Government undertake to guarantee the principal and the interest on the debentures. I am very sorry to say that the condition of the banks under the Co-operative department is very deplorable, hence they are not going to risk their money. Therefore, I do not take upon myself the responsibility of collecting one lakh of rupees as I promised.

(The resolution was omitted with the permission of the Committee.)

RESOLUTION V.

Chairman: I now pass on to resolution V, which concerns co-operative societies. It runs "That propaganda should be undertaken by non-official agency including schools, colleges and universities to expound the principles of co-operation and better-living in villages, with a view to organizing and creating public opinion in favour of these activities which are for the mutual benefit of landlords and tenants and for establishing better-living societies."

An amendment is being handed in suggesting that Government should be asked to expedite the progress of primary education. That is very good indeed, but it does not concern the Committee at all. Primary education is a little bit far fetched when we are considering agricultural debt.

Rao Krishnapal Singh: May I explain the meaning of my amendment?

Chairman: I am afraid I cannot allow it.

Rao Krishnapal Singh: Then I want to oppose it. Had my amendment been accepted, I would have agreed to it. The point I want to make out is this that it is no use preaching to the people principles of co-operation and principles of land mortgage and all these things when they cannot understand them. People who cannot understand the accounts of their rent and borrowing, it is impossible for them to follow these principles. They may be very good, they may be very well. I know, and I suppose all the zamindar members of this Committee know it full well, that there are tenants, and quite a large number of them, who come and say that they do not know the area which they are cultivating, the amount of rent they are paying. If we go out to preach such principles to these people, I wonder if we will at all succeed in our efforts. That is the one reason why better living societies and co-operative societies have failed in this province. They have been a miserable failure, which

would be evident from the perusal of the reports of the department. The cause of their failure is that tenants cannot understand these things. They are so illiterate and ignorant. You may force them into co-operative societies but they cannot take advantage unless they understand the principle, and these principles can only be understood if they have some kind of education, at least literacy. Therefore, Sir, it is very necessary that before we start any kind of propaganda to preach these principles, people should be literate at least and they should have the knowledge of the three R's. Now, Sir, the other thing necessary for the co-operative societies to flourish is that there should be a spontaneous desire on the part of the people who are to derive benefit from these societies rather than it should come to them as something foreign, which is bound to happen if the thing is recommended by this Committee and an Act is passed by the legislature and the executive officials go and try to force this kind of co-operation on the people. I will just quote some figures from official reports. They will show what the condition of tenants is. The expenditure on education as given in the reports is for 7,000 scholars of the universities Rs. 26,14,813 a year; on secondary education for 1,67,944 scholars it is Rs. 44,21,154; on primary schools where we have 1,153,142 scholars it is only Rs. 60,00,000. So the expenditure comes to in the case of University students Rs. 369 per head, in the case of secondary school students Rs. 26 per head and in the case of primary school students Rs. 5 per head per year. This disparity between the expenditures shows clearly that proper amount of attention is not being devoted to primary education, and therefore all our efforts to improve the lot of the cultivator are being wasted mostly. One more point, Sir. This expenditure has got to be looked at from the point of ratio of population in urban and rural areas. We all know that in the urban area 15 per cent. people reside, while in the rural area 85 per cent. So unless we devote lot of our energies to the education of these inhabitants of villages, we cannot succeed in preaching these very good principles as they are.

Mr. Habib-ullah: Sir, things are nice when they are told in season, but they cease to be nice when they are told out of season. We are not discussing here education. I remember there was a full dress debate in the Legislative Council on the question of primary education.

Chairman: I do not want to discuss primary education. If Rao Sahib was irrelevant there is no reason why other members should be irrelevant.

Chairman: What Government is going to do in connexion with this resolution?

Dr. Dubey: It is a pious resolution on paper.

Maulvi Fasih-ud-din: It is a pious hope.

(The resolution was put and carried.)

RESOLUTION VI.

Chairman: The resolution runs:—

"That a recommendation be made to Government to appoint one Marketing Officer on

a salary of about Rs. 700 whose duties should be as follows:—

- (a) to explore the possibilities of finding markets for agricultural produce;
- (b) to issue market bulletins, and supply *mandis* with information about outside markets and the prevailing prices;
- (c) to furnish expert advice and guidance to Co-operative Sale Societies, and to help them by linking them with outside markets;
- (d) to promote the establishment of regulated markets at suitable centres and report on the lines on which legislation may be introduced for such purposes;
- (e) to undertake market surveys; and
- (f) generally to assist in the formation and work of Market Committees."

Maulvi Muhammad Obaidur-Rahman Khan: I want to oppose one part of it and that is regarding the salary of about Rs. 700. I am at a loss to understand why such a huge salary has been proposed by the sub-committee. Are we in a position at present to fix such a high salary of an officer who will be appointed on that post? My reply is that we are not in a position to do that at present. We might get a suitable man for less than that. It would not be wise on our part to fix a salary at this stage when it is only a scheme and a tentative scheme. Therefore we do not want to fetter our hands. I hope that all members will agree to that suggestion of mine.

Chairman: The proposal is that we should omit the amount of the salary,—the words "on a salary of about Rs. 700" be omitted.

Mr. Rudra: The only reason for mentioning the figure Rs. 700 was to indicate the quality and type of officer we want to entrust this very important work to, but we need not stick to the figure. It is merely an indication of the remuneration that should be given to the officer. I am opposed to its omission. It should remain as it would be a good indication.

Babu Awadh Bihari Lal: I beg to propose that the words "on a salary of about Rs. 700" be omitted.

Maulvi Muhammad Obaidur-Rahman Khan: I second the proposal.

Mr. Habib-ullah: I beg to propose that omit "on a salary of about Rs. 700" and add after the words "to appoint one" the word "qualified". The resolution will then read: "That a recommendation be made to Government to appoint one qualified Marketing Officer whose duties should be as follows," and so on.

Mr. Rudra: If Mr. Habib-ullah's proposal is accepted, I would withdraw my opposition.

(The resolution as amended was put and carried.)

RESOLUTION VII.

Chairman: The resolution is: "That a Market Committee including among others

representatives of producers, traders and the Agricultural department should be organized in each market, and that every Committee should employ expert graders, in consultation with the Marketing Officer, for the principal crops in which the market deals."

(The resolution was put and carried.)

RESOLUTION VIII.

Chairman: The resolution runs: "That a recommendation be made to Government to appoint five Marketing Inspectors under the Marketing Officer to assist and guide the Market Committees in grading, standardization, etc., and to help Co-operative Sales Societies."

Mr. Habib-ullah: Instead of "five" I suggest "a sufficient number of inspectors".

Babu Awadh Bihari Lal: We are only trying to explore the possibilities and the scheme for improving the marketing conditions. I do not think we should give all these details, so many inspectors, and so much and so much. In the first year or so the officer and his assistants will only be making inquiries and collecting information and drawing up schemes. So why should we go into the details of this? We have indicated what we want and should leave it to the Government to fill up the rest.

Dr. Mukerjee: The committee when it suggested this resolution wanted to expedite matters much further than perhaps they would, and thought that Market Committees should be established immediately in some of the chief markets of this province to deal with various defects of marketing, as well as of organization as recommended by the Royal Commission on Agriculture. That is why we had to specify five marketing officers in connexion with the marketing board.

Babu Awadh Bihari Lal: I should say "a sufficient number of" instead of "five."

Maulvi Fasih-ud-din: I would like to add after "if necessary" "five marketing inspectors".

Dr. Mukerjee: They would be absolutely indispensable.

(The resolution was put and carried.)

RESOLUTION IX.

Chairman: The resolution read: "The Co-operative Sale Societies should be organized at suitable centres for the purpose of storing agricultural produce belonging to their members, in village *kothas*, *khaltis*, or licensed warehouses as seems best or as advised by the marketing officer; of advancing money, if necessary, on the security of the produce so stored; and for selling the produce with the advice of the Marketing Officer."

(The resolution was put and carried.)

RESOLUTION X.

Chairman: "That Government be requested to construct or ask the Railway administration

to construct one model licensed warehouse as an experimental measure.

That Government be further requested to assist the establishment of licensed warehouses on improved lines by private agency, the warehouses being located at suitable places preferably in the vicinity of railway stations; and to pass necessary legislation on the lines of Mr. Madan's Bill to give effect to these recommendations."

Mr. Habib-ullah: We have not seen Mr. Madan's Bill.

Mr. Rudra: It is given in the Banking Enquiry Committee's Report and also in the report of the Royal Commission on Agriculture. It is a very well known document, and a copy of it has been supplied to every member.

(The resolution was put and carried.)

RESOLUTION XI.

Chairman: The resolution is: "That legislation be passed for standardizing weights (on the basis of the Bengal maund of 40 seers, each seer being 80 tolas) and measures, and

That Government be requested to institute inquiries through the marketing officer in co-operation with the Agricultural department with a view to fixing the standards and grades of agricultural produce."

Standardizing means "that for all except the most private transactions certain weights must be used." There was a big committee which went into this question thoroughly. We have got a bill on the subject before the Legislative Council.

(The resolution was put and carried.)

RESOLUTION XII.

Chairman: "That the attention of district boards be invited to the unsatisfactory condition of minor and village roads; and that district boards be directed by Government to earmark a certain proportion of their annual budget for contributing half the costs of the construction and repair of village cart tracks (leeks), the other half being met in the shape of village labour or by village subscription.

That in order to enlist village assistance for this purpose, propaganda should be conducted by officials as well as by district boards, Co-operative Societies and other non-official agencies.

That district boards should award every year one or more prizes to those villages which maintain their *leeks* in the best condition."

(The resolution was put and carried.)

RESOLUTION XIII.

Chairman: The resolution reads: "That the attention of traders and lorry owners be drawn to the desirability of developing the traffic of agricultural produce particularly of fruits, vegetables and dairy produce, by motor transport; and municipal and district boards be asked to provide special facilities for the transport of agricultural produce by motor vehicles, by giving concessions in the matter of rates and taxes."

(The resolution was put and carried.)

RESOLUTION XIV.

Chairman: The resolution is: "That octroi duty and terminal tax should be levied at a uniform rate throughout the province."

Mr. Habib-ullah: You are suggesting something which is very harmful. Octroi duty is paid on value of the articles and terminal tax is paid on weight. If they are brought on the same footing, it will be a great hardship.

Dr. Mukerjee: The rate should be uniform.

Chairman: What I understand is that wherever there is octroi it should be at the same level whether it is in Banda or whether it is in Lucknow.

Babu Awadh Bihari Lal: I think, Sir, it would be impossible. Cawnpore municipality was the first to introduce terminal tax. Several other municipalities that wanted to introduce terminal tax came to discuss with us. They found it impossible to adopt the rates of Cawnpore, because terminal tax was levied on all commodities that came into Cawnpore and Cawnpore being a centre of trade and distributing centre, it imported wholesale many of the commodities, cloth for instance and spices and many other things, and from there they were distributed and no refund on those things was given that went out of Cawnpore. So we could levy a pie per rupee and get a very large income from it; but other municipalities when they wanted to introduce terminal tax they could not make up the deficit of octroi by a pie per rupee. So they had to levy a very high rate. It is impossible to have a terminal tax for all towns on the same scale.

Dr. Mukerjee: I think our friend has been looking at this question from the point of view of municipal boards and district boards. The standpoint of the committee was quite different. It is desirable that there should be a uniform flow of agricultural trade throughout the province. We have felt that the difference in rates of octroi and in terminal taxes in different municipal towns and country-cities has played not a small part in impeding that smooth flow of agricultural produce within the province and beyond it as is essential for a better organization of agricultural marketing. Everywhere in the world wherever these cesses and taxes have been imposed these impede agricultural trade and at least uniform rates ought to be levied. There should not be a confusion of rates and cesses all over the province.

Babu Awadh Bihari Lal: Has the Government got power to dictate to municipalities?

Dr. Mukerjee: That is an advisory recommendation of the committee.

Babu Awadh Bihari Lal: It is impracticable.

Dr. Dubey: We do not want to be a party to any encroachment on the powers of municipal boards. I do not think it would be possible. Suppose a particular town wants to have a very high rate of taxation for increasing its amenities. Why should we put any hindrance in its way? Taxes on a community depend on the requirements of the community. We cannot lay down any such

restriction that there ought to be uniformity throughout the 48 districts of the province

Maulvi Fasih-ud-din: I agree with Dr. Mukerjee in this respect. I think the Government can very well bring up a law on this subject. Unless there is regularity and similarity in the rates of octroi and terminal tax there will not be a free flow of agricultural produce and there will be very many difficulties. Already difficulties are being experienced on account of these differences in the rates and the trade is very much hampered, specially the trade in agricultural produce. So I think it is a very sound proposal and there is absolutely no reason to oppose it.

Mr. Rudra: I regret I have to oppose the resolution. Different municipalities and different local areas have not equal facilities of approaches to various towns. So I do not think really that by imposing or demanding or asking Government to have uniform rates we shall achieve the object that we have in our view, viz., equal incidence. Therefore I beg to oppose.

(The resolution was put and lost.)

RESOLUTION XV.

Chairman: Resolution XV is: "That in view of the needs of the province in the present period of low prices, the question of lowering of railway freights and the grant of other railway facilities for the movement of agricultural produce, be inquired into by Government in consultation with the Railway Board (and the Marketing Board when established); and early steps be taken for the reduction of railway freights where necessary."

(The resolution was put and carried.)

RESOLUTION XVI.

Chairman: The resolution reads: "That a marketing board be established for the following purposes:—

- (a) to bring about the co-ordination of various interests and activities connected with the marketing of agricultural produce;
- (b) to regulate markets;
- (c) to deal with the question of railway freights, etc.;
- (d) to make rules for regulating warehouses; and
- (e) to advise Government generally on all problems connected with marketing.

That the Marketing Board should consist of—

- two representatives of the Provincial Legislative Council,
- three representatives of agriculturists,
- three representatives of Market Committees and Chambers of Commerce,

one representative of the Provincial Co-operative Union,

two experts appointed by Government,

one representative of the Railways,

the Director of Agriculture,

two banking experts,

one representing Joint Stock Banks and one indigenous bankers, and

the Marketing Officer (*Secretary*)."

An amendment is being proposed here by Dr. Mukerjee, who wants to substitute the word "economists" for the word "experts". They are to be appointed by Government or not, I am not sure.

Dr. Mukerjee: It was felt that there should be some experts in that committee, who could deal effectively with statistics of railway rates and freights, movement of agricultural produce—inter-provincial as well as between this province and outside India,—and so on, and I think economists would do this better than other experts.

Chairman: Will economists be appointed by Government or by whom?

Dr. Mukerjee: I simply said "two economists".

Mr. Sah: I beg to propose that we might say "one economist and one expert appointed by Government".

Maulvi Fasih-ud-din: Expert of what?

Mr. Sah: Financial expert.

Dr. Mukerjee: I am prepared to accept the amendment of Mr. Sah.

Maulvi Muhammad Ubaidur-Rahman Khan: I want to point out one thing here. The resolution says "three representatives of agriculturists". If we exclude landlords from agriculturists, may I know whether my expert friends will like to see any zamindar on this Board?

Mr. Rudra: Surely.

Maulvi Muhammad Ubaidur-Rahman Khan: Do they think that they are fit enough to serve on that Board? If they think they are fit enough, then they must mention here that there must be a representative of landlords otherwise there will not be a single landlord on the Board.

Mr. Rudra: Certainly that element should be provided.

Mr. Brijnandan Lal: A zamindar who is fit.

Chairman: Do you want one, two or three landlords?

Mr. Rudra: I would say two representatives of landed interests.

Mr. Habib-ullah: If we will say "two landlords" it will mean that we are excluding two representatives of agriculturists out of three.

Maulvi Muhammad Ubaidur-Rahman Khan: I am not proposing any amendment. I am merely pointing out that.

Dr. Mukerjee : When the Committee laid down "three representatives of agriculturists", they of course thought that amongst representatives of agriculturists landlords must come in.

(The resolution as amended was put and carried.)

RESOLUTION XVII.

Chairman : Resolution XVII reads : "That in order to prevent agriculturists from being exploited and to enable them to obtain adequate benefits from the sugar duties, Government be authorized (by legislation) to fix at the beginning of each season the minimum price to be paid for sugarcane in that season."

(The resolution was put and carried)

RESOLUTION XVIII.

Chairman : The resolution runs : "That Government should assist financially the establishment of at least one Co-operative Sugar Factory on the lines suggested by the Provincial Co-operative Union."

(The resolution was put and carried.)

RESOLUTION XIX.

Chairman : Resolution XIX runs : "That the wheat import duty should be extended till such time as the economic depression lasts."

(The resolution was put and carried.)

DEFINITION OF AGRICULTURIST.

Chairman : Now we come to the definition of "Agriculturist".

Maulvi Muhammad Obaidur-Rahman Khan : It is 10 minutes to 5 and the discussion on the subject is bound to take a long time as it is a controversial question. At the same time the House is very thin. May I request that this question may be taken up tomorrow. It will take about two hours and we can finish the business before lunch.

Mr. Brijnandan Lal : I think it should be taken up today, otherwise there will be more members tomorrow who will oppose.

Chairman : We should finish today. You are not deciding it definitely. The definition is after all provisional and tentative.

The definition proposed by the sub-committee is—

"Agriculturist means a person who by himself or by his tenants, servants, or hired labourers earns his livelihood principally by agriculture or engages principally in agricultural labour, provided that he does not pay a land revenue exceeding Rs. 200 per annum and his income from sources other than agriculture does not exceed Rs. 500 per annum."

Maulvi Muhammad Obaidur-Rahman Khan : In my opinion the Bombay definition is quite comprehensive, and there seems absolutely no need of further qualifying it with any condition whatsoever. By laying down the condition embodied in the proviso the sub-committee has unwarrantably restricted the scope. This proviso aims at dividing zamindars into two categories and

intends to give relief to small zamindars only, while the class which is to form a minority is left in the depth of the deep ocean of huge debt. Sir, is it fair and just? My reply to this pertinent question will be indeed emphatic "No". A number of so-called big zamindars are in financial distress in these days of unprecedented worldwide financial calamity. Even great powers of the world are feeling the pressure very badly and almost all of them stand in need of protection. I was simply astonished to listen to the remarks falling from the lips of a learned Professor of Economics day before yesterday that big zamindars were not affected from the present slump in prices. Can any right-minded person living in these provinces believe this.

Dr. Dubey : Who said that, Sir?

Chairman : I do not know.

Maulvi Muhammad Obaidur-Rahman Khan : It will suffice to recite a Persian couplet here—

شب تاریک و بیم موج گردا به چنین حال
کجا دانند حال ما سبکساران ساحل

It is well known that the exorbitant rates of interest generally prevailing in these parts of the country are simply ruinous and no civilized country can tolerate this state of affairs for a moment. There has been a cry for a long time to put a check to this barbarous practice, but unfortunately no steps have been taken so far to remedy the evil. In these days of financial stringency it has been rightly realized by the authorities that it is totally indispensable to adopt measures to redress the long-standing legitimate grievance and save the agriculturists who are really the backbone of these provinces from ruin. My submission is that zamindars who are heavily indebted and whose estates are under sale due to the prevailing heavy rates of interest and to malpractices freely adopted by money-lenders deserve immediate protection at the hands of the State at the present critical moment. There is no justification in dividing them into two classes.

All zamindars derive their income from those sources only which have been mentioned in the sub-committees' recommendations. The mere fact that he has to realize the rent from tenants even if he does not personally take part in cultivation implies that though he has to pay his full quota of Government revenue he is year by year and crop by crop to forego a very large portion of his income to the tenants which profits the cultivation and agriculture. This mere fact goes to show that he is depending for his income entirely on agricultural produce. I put a question to my learned colleagues : "If a zamindar is not an agriculturist, then what is he?" I strongly urge that every zamindar notwithstanding the amount of revenue which he pays to the Government is an agriculturist and I am sure that this view of mine will be shared by the Committee.

Mr. Habib-ullah : I stand to support the resolution put forward by my friend, and I think he has made a very good suggestion that there should be no split between the zamindars and zamindars by classifying

them as large and small. After all we have been discussing here about *sir* and I have made enquiries as a result of which I am absolutely certain that there are big zamindars who have got large farms and *sirs* of their own and they employ hired labour and they use their land for their own agricultural purposes. While there are very small zamindars in many cases who get all their rents through the tenants and have no time really to look into their land. Therefore, there should be no difference really between the small and large zamindars. Secondly I find that if you exclude the large zamindars you may have greater difficulties in raising money for these banks. It will be they and mostly they who would take shares in these banks, and it is through their capital that this banking system that we are about to start will prosper. On the whole I think the proposal of having all this scheme only in the interest of the tenant and a small zamindar is not a sound one. A big zamindar may at times be more hard hit than a prosperous small zamindar, and there is no reason to exclude him from the benefits of this scheme. I therefore support that the limit of land revenue which has been added should be deleted and the Bombay definition adopted.

Chairman: You want to omit the proviso about income of Rs. 500 from other sources?

Mr. Brijnandan Lal: It has been said that the definition aims at dividing the zamindars into big and small. I think nothing of the kind is being attempted. What is wanted is that we ought to know which of the provisions of this report should apply to small agriculturists and which to small zamindars and which to big zamindars. The Committee was all along under the impression that some of the provisions of this report would apply to only small zamindars and other provisions would apply to both. If we adopt the definition as suggested by Khan Bahadur Maulvi Muhammad Obaidur-Rahman Khan Sahib, we will find that some of our recommendations will become quite useless. They do not apply to big zamindars. The Committee will have to go into the entire question again. For example, if we take resolution III that no decree against agricultural produce may be executed after four harvests, and if we include big landlords in this definition, that means no decree against them may be executed after more than four harvests. This is one instance. Now take resolution VI, which says that no agriculturist should be arrested or imprisoned in execution of a decree of money. There are hundreds of zamindars who have led luxurious life and wasted money and now they find themselves in debt. Certainly it was never meant that big zamindars should never be arrested even though they have committed misdeeds in their lives. Now I will take another resolution—resolution IX. It says that no suit for money may be brought against an agriculturist except in the district where he resides or in the district where the money was paid to him. Was it ever intended to apply this concession in the case of big zamindars? Was it ever intended that the zamindar could not be sued anywhere else? It

will be a greater hardship to the creditors and the people concerned if this thing applies to big landlords. As regards the pathetic description of zamindars that was given by Khan Bahadur Maulvi Muhammad Obaidur-Rahman Khan Sahib I myself happen to be a zamindar—though not a big one—paying land revenue of Rs. 5,000. But I think Usurious Loans Act is enough and sufficient to protect big zamindars. Do the big zamindars want that all these things that apply to small agriculturists should also apply to them? Do they want that all the benefits that we are giving to small agriculturists should be conferred upon them also? In this connexion I must pay my tribute to Dr. Dubey, who read such a good paper. I do not agree with all what he said, but the major portion of it was correct and I think it will be a mistake to include big zamindars in the definition of "Agriculturist".

Dr. Mukerjee: Sir, though I am supporting the resolution of the sub-committee, in fact I am one of those who helped in the drafting of it. I entirely dissociate myself with the remarks just now coming from the lips of my friend.

Mr. Brijnandan Lal: Because I have no right of reply.

Dr. Mukerjee: I am one of those who believe that a landlord is not a social parasite and that he has played and he will play an important part in the country's agricultural advancement. But at the same time I do think that there ought to be a distinction between big landlords and small landlords, a distinction again between small landlords and tenants. Sir, in our resolution as put before the House we have said that an "Agriculturist" should be one who would not be paying a land revenue exceeding Rs. 200 per annum. Going into statistics it will, I think, be a surprise specially to those who are opposing this draft, that full 83 per cent. of the landlords of this province pay a revenue of less than Rs. 100 per annum. So that when our figure is Rs. 200, I would expect that full 90 per cent. if not more of the landlords of the province, would be coming under the definition of "Agriculturist".

Mr. Habib-ullah: Does this figure of 83 per cent. apply in the case of Oudh also?

Dr. Mukerjee: It does. What our definition does comprise is not merely the agricultural labourer, not merely the tenant of all grades, not merely the pattidar or small peasant proprietor, but also whom I may call the middling landlord. Sir, there is a vast difference in financial solvency between the bigger and the smaller landlord. Statistics may again be cited in this connexion. It has been found by the Banking Enquiry Committee that whilst relatively fewer landlords are free from debts, the average debt of the landlord is nearly 24 times that of the tenant. Remembering that the landlord is far more wealthy we can only attribute this result to his extravagant desire to maintain his social position and prestige.

Mr. Habib-ullah: He contributes towards educational expenses.

Dr. Mukerjee : Now such a general remark of the Banking Enquiry Committee that the average debt of the bigger landlord is greatly due to his social extravagance, to his attempt to maintain his social prestige and social eminence in this country is supported by a detailed classification of debts of the bigger landlords in the district of Shahjahanpur. Sir, it has been found in the district of Shahjahanpur that landlords paying land revenue from Rs. 500 to Rs. 1,000 are indebted to the extent of 10 per cent ; landlords paying land revenue from Rs. 1,000 to Rs. 3,000, 20 per cent. ; and landlords paying land revenue from Rs. 3,000 and more, 50 per cent. So you see the higher you rise in the scale of land revenue the greater is the percentage of indebtedness—a thing solely due—you must confess—to what the Banking Enquiry Committee have called extravagance and the attempt to maintain social position and prestige. Now if there is this difference between the small pattidar and the big landlord, you will agree with me that after all it is the smaller man who has been hit by the present agricultural depression who needs our sympathy. Sir, the resolutions which we have passed will certainly entail an abridgement of credit for everybody. Some steps have been taken which will affect unfavourably money-lending as a business in the countryside. We have taken steps relating to the exemption of revenue and exemption from the enhancement of rent, steps which would be quite uncalled for when you look into the economic position of the bigger landlord. If such extreme steps have been taken which would entail a sacrifice of the money-lenders which would entail a sacrifice of the landlords as a class, which would also entail a sacrifice of the Government, surely the class for whom such sacrifices ought to be made should be the class least fortunate in the country and this is the class represented by the agricultural labourers, the small tenants, the small pattidars and the middling landlords, and not the bigger landlords who are paying a revenue of more than Rs. 200. As you rise in the scale, as I have said, indebtedness rises to higher and higher figures but such indebtedness increases due to faults of the debtors rather than to economic misfortunes. Then there is the further point about the non-agricultural income. Now take a district like Meerut or Shahjahanpur, where the small agriculturist has his trading, his money-lending and various other subsidiary occupations associated with agriculture. If a small peasant proprietor or tenant by his agricultural money-lending earns an income of more than Rs. 500, I should think he should not be entitled to the special privileges, the special protection, which we are affording in these measures. I should ask all of you to think of the measures which we have devised and passed as measures which are meant only to meet a very emergent situation, measures meant and intended only for the people in the lowest rungs of the economic ladder, and I should appeal to you to vote on this resolution in a generous spirit rather than a spirit dictated by class bias.

Maulvi Fasih-ud-din : Sir, at least for once in his life my friend on my right has followed

my example in opposing a good thing. Sir, the proposal in my opinion is very sound and Mr. Brijnandan Lal when quoting certain provisions of the measure of the relief which is to be given to the tenants said that in his opinion they do not hold good in the case of the big landlords. He quoted the provision about the distraint of harvest. He forgets that the bigger the zamindar the larger the area of s.r he usually possesses. He says that the provision relating to the arrest of a debtor should not hold good in the case of big zamindars. I think it should hold good in the case of bigger zamindars with all the greater force for the simple reason that the bigger zamindar has to keep his position and status and it is he who primarily deserves to be saved from the ignomy of being arrested. He quotes other similar provisions which I think should hold good in the case of all the big zamindars. This is so far as his speech is concerned. Now, Dr. Mukerjee has raised a point that the bigger zamindars are more indebted than the smaller zamindars, and he concludes from this fact that the bigger zamindars are indebted on account of their extravagance. I submit it to this Hon'ble House that the bigger the zamindar happens to be the more he suffers from the present economic depression for the simple reason that he has a larger stake in his zamindari than the smaller zamindar. He has to realize a much larger amount of rent and when he fails to realize those rents he naturally suffers more than the smaller zamindar. The smaller zamindar can afford to lose a few rupees in the shape of rents, but the bigger zamindar cannot afford to lose the thousands and lakhs of rupees of rents. My honourable friend on my left has quoted the name of Nawab Sir Muzammil-ullah Khan and says that as a zamindar he does not deserve to come under the protection which is sought to be given to zamindars. I submit that he really does not deserve to come under the protection of these measures because he is not in debt. But if he had been in debt to the tune of say about two or three lakhs or ten lakhs of rupees, I would have certainly said that he deserves to come under this. It is only the indebted zamindar for whom this relief is meant and not for solvent zamindars, and in that case I think there should be no differentiation between a big zamindar and a small zamindar. So long as a zamindar is heavily involved in debt he does deserve this protection. I could have very well understood the sense of the proposition if it had said that those zamindars who get themselves involved in debt on account of their extravagance they need not come under this protection but to exclude all the big zamindars indiscriminately I think is a mistake and a wrong policy.

Mr. Rudra : It is a matter of great pity that "Agriculturist" was not defined at the very commencement of our deliberations, because in that case much of what we have done, which was definitely aimed to give relief to the tenants and the smaller zamindars, would have been done in a different way. There is no doubt that landlords, a large number of them, have played an important part in the rural reconstruction of the country and I think they will play a

greater part still as time goes on. But there are two questions that I should like to ask Khan Bahadur Obaidur-Rahman Sahib, and these are: (1) Will he not draw a line somewhere between the various categories of zamindars? There is a clear distinction between those who are up at the top of the rung and those who are at the lower rung, and surely some division should be made. (2) I am sure with his sense of responsibility and seriousness that he has he must somehow draw a line between those zamindars who have been indebted for the sake of the development of their estates and those zamindars who are indebted as Dr. Mukerjee forcibly pointed out though their maintaining social position, just giving a false value not only to themselves but to others of humbler ranks who follow them. If he can satisfy me on these two points, I will very gladly give my vote to him. If not, I fear I shall not be able to support him.

Dr. Dubey: Sir, I submit that the compromise proposed by the small sub-committee that we appointed yesterday be accepted and the amendment of Khan Bahadur Obaidur-Rahman Sahib be rejected. In submitting this I would read two or three lines from Mr. Mudie's note, who made extensive enquiries regarding the Agra district: He says: "Figures clearly show that the main cause of debt among the poor is lack of capital and among the rich extravagance." At another place Mr. Mudie observes: "The increased security which zamindars can offer enables them to stay at home, but at the expense of piling up of enormous debt." At a third place Mr. Mudie says: "Generally speaking a high average agricultural debt is evidence of poverty and a high average social debt is evidence of wealth—the one means that the cultivator has no capital and the other that he can offer ample security." In these circumstances, Sir, I find it very difficult as to why provisions of exceptional character should give benefit to all classes of agriculturists. A great deal of what I said yesterday has been taken exception to by some of my zamindar friends. I do not mean to attack the zamindar friends. The whole thing is that the zamindar in this country unfortunately has not adapted himself to the requirements of the present situation. The big zamindars in the other countries are doing it, and if they are not doing it they are fast being expropriated by legislative enactments, which mean dismemberment of their estates into smaller holdings. Whereas somehow or other the small cultivator always manages to find out some supplementary means of livelihood, the big zamindar in this country believes that his estate, to however small size it might be reduced, must enable him to give a sufficient amount of livelihood, whether these are times of depression or times of prosperity. Sir, I submit that where these exceptional provisions have been made in other countries, they make a distinction between different classes of agriculturists. Such exceptional provisions in our own country should be applied with very great discretion and only to those classes of poor people who particularly require them. In

these circumstances I support the compromise proposed.

Babu Awadh Bihari Lal: This definition is relevant in two ways: first to determine our jurisdiction and secondly to determine which provisions are to apply to bigger and which to smaller zamindars. It is unfortunate that this question is being discussed at the last when all the provisions have been passed, otherwise we would have been careful to indicate which resolution would apply to bigger zamindars and which to smaller zamindars. In the first resolution, for instance, we have put down the limit where the principal sum does not exceed Rs. 500. In some other place we have made provision that this would not apply if the limit is higher. We have adopted resolutions, for instance, about the Land Alienation Act. It is always understood that these apply to bigger zamindars and smaller zamindars if their property is ancestral. We have also taken cognizance of bigger zamindars in the scheme for land mortgage banks. So we cannot say that they are out of our jurisdiction. We have dealt with smaller and bigger zamindars alike, and because the definition was not settled beforehand we have not made distinct provisions. We have been careful not to introduce any very stringent measures. In adopting the rate of interest we have taken the prevailing rate, which we considered fair. In connexion with the Usurious Loans Act we have taken all the prevailing rates which are considered fair and the exorbitant rates have been excluded. In some cases, for instance, we have said that the produce of the land shall not be attached more than four times. There is a clear distinction that this applies to agriculturists and not to zamindars. As we have taken the bigger zamindar into consideration in several cases and have not observed a marked distinction all along in our resolutions, I think it is now unfair to curtail them by any limitations of revenue or income derived from other sources. Then, Sir, to say that all big zamindars are indebted due to their extravagance is not fair at all. When we are admitting that all the tenantry is so hopelessly indebted, the condition of zamindars can better be inferred from it. A zamindar whose tenantry is so hopelessly indebted cannot be expected to have realized all his rent to the full. There are zamindars who have had to borrow money to pay revenue. They have had very great difficulty in keeping their budget balanced. I cannot presume that this House would accept that when the tenantry was hopelessly indebted the zamindars have been very well off and extravagant. I think at this stage it is not fair to curtail the definition of "Agriculturist." Moreover in this proviso to which exception has been taken there are two factors: one that he should be paying revenue of not more than Rs. 200 and that his income from other sources should not exceed Rs. 500. If his revenue is Rs. 200 he is making a profit from agriculture only to the extent of Rs. 200 or Rs. 250; if he is getting Rs. 500 from other sources he is not principally an agriculturist. I think these two factors in that proviso are inconsistent, and I strongly support the deletion of the proviso from the definition.

Rai Rajeshwari Prasad : Sir, I rise to give my support to the amendment of Khan Bahadur Obaidur-Rahman Khan. I shall first take up the speech of Mr. Brijnandan Lal, who has pointed out certain difficulties of a practical nature which will arise in connexion with the recommendations which we have made. I shall begin with the last difficulty mentioned by him. With regard to the place of suit, he said that a recommendation like the one we have made will be entirely out of place for the bigger landlords. I think it was made clear before the committee that that recommendation in particular was neither claimed nor was it meant for the bigger landlords. We do not want it. But there was another recommendation to which he has made a reference and that was the recommendation with regard to the question of arrest. Sir, only the other day we have heard Bentham being quoted on individual liberty and personal freedom on the question of arrest. I would like only to put one question to those persons in this committee who have come forward with pecuniary limitations in the definition of "Agriculturist," and that question is this: Is the individual liberty of a zamindar who pays Rs. 100 land revenue different in any way from the individual liberty and the personal freedom of a zamindar who pays more revenue? If on considerations like this we are prepared under the economic situation in which we are at present to give relief to zamindars who pay less revenue, I think the questions of the habits of bigger zamindars and other considerations like that should not come in our way. With regard to the arguments that have been advanced in general by Dr. Mukerjee and Professor Rudra, I would like to confine myself only to a few remarks. Both of them dwelt upon the extravagant habits which have resulted in the indebtedness of the zamindars. Sir, when it has been admitted that the economic situation—the rise in the value of money by almost 50 per cent. and the fall in the value of agricultural produce—has affected the smaller zamindar and the bigger zamindar alike, I fail to see how shelter can be taken behind the habits and the ways of living of a people who have equally suffered to that extent from the economic situation in general. Probably it is not within the sight of the Doctor and the Professor that in more cases than one it is not the person who has incurred the debts himself who has to pay the debt. It may be I quite admit that in many cases debts are incurred for wrong purposes for habits which cannot be justified, but in the generality of cases it is the sons and the grandsons of the person who incurred the debt who have to face the liability of the debt. I submit, Sir, that a great deal more has been made of this fact of the habits of people from which these debts have arisen and unnecessary importance has been attached to these facts. Viewing the situation purely from the economic point of view and taking a dispassionate view of the matter, I still fail to see how a difference in the matter of relief can be made in the case of the bigger landlord and the smaller landlord.

Mr. Sah : The economic depression is widespread. There is no one who is not affected by it. The relief must be given to those who are poor, that is to say who cannot afford to live without relief. As a matter of fact bigger zamindars can very well afford to just cut

their expenses according to their means just as we are doing at the present time. I think it is an insult to the fair name of zamindars that they should come forward to ask for a relief of this sort. With these words I would request the honourable mover of the amendment to withdraw it.

Lala Anand Sarup : I understand that the resolutions which were passed and the enactment to be made are meant to give relief to the peasantry class and to the smaller landholders who are in great need at this time of economic depression on account of the slump in prices. In my opinion very few big zamindars would like to go to the court for reduction in the interest and would not like to pay their dues in full. I have seen with my own eyes many debtors who paid their dues in full not only in rupees but in annas and pies considering their contracts to be sacred. However, as the bigger zamindars are also in troubled waters, and I being a representative of the zamindars, support the amendment of my honourable friend Khan Bahadur Obaidur-Rahman Khan.

Maulvi Muhammad Obaidur-Rahman Khan : I shall be as brief as possible, but I shall try to meet all the points which have been raised. First of all I am very thankful to those members who have given their support to me and at the same time I am grateful to the opposition because they have been very moderate. Mr. Brijnandan Lal said that certain provisions will not apply to zamindars, but I am sorry that he could not explain a single instance in which it will not apply to big zamindars, and my friend Rai Rajeshwari Prasad has completely disposed of the objection of Mr. Brijnandan Lal. Then he says that he is not a big zamindar. Certainly that is the reason of his lack of sympathy with the big zamindars. I was under the impression that he will always support right cause and will not mind whether it is for the good of a big zamindar or a small zamindar or a tenant. I am disappointed this time. He stated that Nawab Sir Muzammil-ullah Khan is not in need of any protection. Certainly he is not in need of protection, not only so much but he is in a position to give protection to others and he does give protection to others, not only to zamindars but to non-zamindars also. He always takes part in all public walks of life with great generosity. I am not standing here at present to plead the cause of such zamindars as Nawab Sir Muzammil-ullah Khan. The most important speech is that of my friend Dr. Mukerjee. He says there must be a distinction between a big zamindar and a small zamindar. My plea is that there should be no distinction between zamindars. They are one class and they cannot be classified in two classes and to classify them in two classes is a bad principle. I am opposed to this classification, because it will be laying a bad principle, which will be injurious to the cause of zamindars in particular and agriculturists in general. My submission is that zamindars and tenants cannot be divided because they are one. There has been always trouble on account of dividing them into two classes; if one is tree the other is fruit of that tree. You cannot divide them. He says that 80 per cent. of the zamindars will come under that definition. It is not a news to us. We know this fact and

therefore I said in the beginning of my speech that those of them who will form a minority will be deprived of the benefits of the provisions of measures which we have proposed here and I will not like that they should be deprived of the benefits of these provisions. On this ground therefore I am very keen to include them in the definition which has been proposed just now. Again he was pleased to remark that there is vast difference between insolvency of big zamindars and small zamindars. It is a thing which a man of my ability cannot understand. What I maintain is that a big zamindar who becomes insolvent is more harmful to the society, more harmful to the country and more harmful to human-being than a small insolvent zamindar, because to the former there are attached too many people and if he becomes insolvent they all are left in the lurch. In these days it is very difficult for them to search for employment if they are thrown out of the employment of a big insolvent zamindar. The report of the Banking Enquiry Committee has been quoted frequently in support of the arguments by my friend Mr. Dube. May I point out to him that there was not a single landlord on that committee.

Mr. Sah: Rai Bahadur Mohan Lal was on that committee.

Maulvi Muhammad Obaid-ur-Rahman Khan: Who can say he is a landlord? If you will exclude big zamindars from the definition of agriculturists, then they would be deprived of their legitimate right and in future they will not be on any committee which will be constituted to safeguard their rights, and consequently reports will be produced like that of the Banking Enquiry Committee, which will always be quoted against them. Then he says higher you rise the larger is the percentage of indebtedness. That is why we demand protection for bigger zamindars. Had the percentage been not so high, certainly we would have not been so anxious to give relief to them. It is an argument in our favour. He was then pleased to say it is smaller zamindar who is hit by the present financial position. May I submit that he is not in possession of true facts when he makes this remark. He made this remark day before yesterday and again he has repeated it. My friend Dr. Dube was very anxious to know who was the honourable member who had made that remark to which I referred in my first speech. Now he has himself repeated that remark. I say and I can prove to him that it is not the case that smaller zamindar is more hit. The other day immovable property of Raja of Kalakankar was attached on account of the non-payment of revenue. Can anyone say that Raja Kalakankar is an extravagant rate? Another big landlord is in financial difficulties. Can anyone say that even he is extravagant?

Dr. Mukerjee: Are names of persons and their financial conditions to be discussed in a committee like this?

Chairman: It is rather a pity to mention names.

Maulvi Muhammad Obaid-ur-Rahman Khan: Raja Kalakankar's case was discussed in the Legislative Council at great length. However I shall avoid that. It is not a fact

that only smaller zamindars are hit. There are big persons who are in grave difficulties and therefore they are in need of help. Had it not been the case we would have never cared for help. He says then that the proposed measures are meant for emergent cases. There is nothing more emergent than to help those zamindars who are the backbone of the Province. Dr. Rudra says that I should draw a line between a zamindar and a zamindar. I shall draw a line between zamindars who are in debt and those who are not in debt. If it is proved that he is not indebted on account of his own fault, then you should sympathize with him and extend the privileges of the Act otherwise not. I am not standing here to plead the cause of extravagance. I am against extravagance. I myself try to be as economical as any friend of mine does. I may assure him that I am never in favour of helping a man who does not deserve it. But I hope he will be at one with me in extending privileges of this provision for the benefit of a deserving person. There can be enquiries and if it is proved that if he is under debt not on account of his own fault then you should not deny the privileges of this provision. My friend Dr. Dubey says that figures clearly show that the cause of indebtedness in the case of bigger zamindars is extravagance. I have already replied to that. I admit there are cases where it is due to extravagance, but it is not in all cases. There are other reasons also on account of which they are in debt, and not for the fault of their own. Therefore you should not condemn them as a class. It would be really too hard to condemn them as a class. My friend Mr. Sah says that relief must be given to the poor. What is the definition of poor? I was very much anxious to hear the definition of poor, but he did not care to define it. It would have been very good had he very kindly done so. Poor is the person who is in need of money, who has not got enough to support himself.

Maulvi Muhammad Obaid-ur-Rahman Khan: If you are poor we will be ready to help you.

Sir, I hope members will not lay down a proposition which is injurious to the cause of zamindars in particular and to the cause of agriculturists in general. I again emphasize upon them that it is not this measure only which is perturbing my mind. I am against laying down any such definition because it will be detrimental and it will be quoted on other occasions and will cause great harm. Therefore I once again appeal to my friends to reconsider the matter in the light of remarks which I have made and to give their votes as carefully as possible.

Hafiz Hidayat Husain: According to your ruling yesterday Land Alienation would apply to both the zamindars bigger and smaller, provided land is ancestral. Do I understand rightly that the Usurious Loans Act, which we have discussed today, also apply to both?

Chairman: To everybody. I think myself that this definition has lost most of its importance. All the more drastic measures that we proposed to relieve agriculturists will apply to

the landlords. There is very little left that will apply only to agriculturists. There are good many limits in the resolutions passed in the first sub-committee. On the other hand of course it is doubtful what shape it will take later.

Hafiz Hidayat Husain: The reason for my asking this was that I understood yesterday that all these proceedings were directed towards the relief of small proprietors and those who are in direct contact with the land; but if we are discussing provisions which apply to both, I think some of us will have to review our opinion with regard to the question. That is why I asked you yesterday to decide the question of the definition of "Agriculturist".

Chairman: It was not quite possible to do it.

Mr. Sah: I think Hafiz Hidayat Husain Sahib can give a note to this effect. That is a very important point.

Chairman: The amendment before the House is that the definition proposed by the sub-committee be accepted, but the proviso, viz.: "Provided that he does not pay a land revenue exceeding Rs. 200 per annum and his income from sources other than agriculture does not exceed Rs. 500 per annum," be omitted.

(The resolution as amended was put and carried by 9 to 5.)

Dr. Mukerjee: This is a very important point and many of us would like to give a note on the subject.

Chairman: Anybody may send notes, but they should bear in mind that the report is already getting large.

Mr. Sah: This is a very important matter.

Chairman: I have no objection to your putting your note. When you will study the resolutions, then you will find that four or five of them are already limited to Rs. 200 or Rs. 500, so that the definition becomes immaterial, and the others are of minor importance.

Dr. Mukerjee: I would like to thank the Chairman for the very impartial and tactful way in which he has conducted the proceedings. Some issues have been very controversial and yet he helped us to maintain a good deal of sanity.

Mr. Sah: I second it.

Maulvi Fasih-ud-din: We all agree.

Mr. Rndra: I would like to thank also our Secretary, Mr. Wajahat Husain and other gentlemen who worked hard and supplied us with all possible information, and particularly for the hospitable lunches they gave us.

Chairman: I thank you.

(The committee adjourned.)

NOTES OF DISSENT.

Power of court in respect of reduction of decretal amount.

We consider that along with other measures of relief of indebtedness, which have been

proposed by the committee, it is necessary to give adequate relief to the agriculturist in the form of the court reducing the decretal amount of an agricultural loan in hard cases. We are of opinion that the court in executing a decree against an agriculturist in respect of money loaned between January 1, 1917 and March 31, 1930, should, if it thinks necessary, reduce the decretal amount, excluding costs, after a full consideration of the circumstances and period of the loan as well as the movement of prices by a sum not exceeding 25 per cent. in the case of secured debts, and not exceeding 33½ per cent. in the case of unsecured debts. The maximum reduction of the decretal amount should, however, be granted by the court only if there is repayment in cash immediately or within a period not exceeding six months. Such reductions, further, should apply only in the case of an agriculturist as defined in another minute of dissent.

(Sd.) RADHA KAMAL MUKERJEE.

(Sd.) JAGBHAN SINGH.

(Sd.) AWADH BIHARI LAL.

(Sd.) KRISHNAPAL SINGH.

(Sd.) ANAND SABUP.

(Sd.) MADHUSUDAN DAYAL.

(Sd.) D. L. DUBEY.

Note on Reduction of Debts.

While holding that the sanctity of contracts must be respected and the State must assist a lender in recovering the whole amount of the principal advanced, and the interest at contractual rates, if not usurious, I feel that in times of grave economic distress as the present, some relief must be given to agriculturists. I am, therefore, of opinion that relief may be given to agriculturists in respect to their part debts either in the form recommended by resolution no. 3 or by resolution no. 8 of sub-committee no. 1 in case the relief afforded by resolution no. 2 is not considered sufficient; provided—

- (1) that relief is given only to agriculturists as defined in the minute which I have signed along with a few other members;
- (2) that relief given is extended to the financiers of agriculturists also, provided that they are non-income taxpayers (income of Rs. 1,000 per year);
- (3) that the relief given touches only the unsecured debts and does not extend to the secured ones;
- (4) that the relief given extends for a short period only.

Whether relief is extended in the form recommended by resolution no. 3 or in no. 8 is a mere question of form. Personally I would favour the form recommended by resolution no. 3. But in this case the period of 7 years as decided by the committee when they accepted the amendment of Rai Sahib Babu Anand Swarup will be too low in the case of zamindars.

(Sd.) MOHAN LAL SAH.

RESTRICTION OF LAND ALIENATION.

A.

The impoverishment and gradual expropriation of the hereditary cultivating classes as well as the danger of treating the land as a mere source of profits in the case of the new rich, who are often out of touch with the soil both by taste and tradition, are evils which now necessitate restriction of free transfer of land. Such restriction must, however, be judiciously devised in our opinion so as to protect effectively the genuine cultivator, and stabilize him in his holding, where the labour and capital of his ancestors have been expended for generations. We are of opinion that these needs will be more effectively met by applying the Land Alienation Act to the portion of the *sir* land, which is under the proprietor's own cultivation, or which has not been sub-let for a period exceeding three years. This was proposed as an amendment by one of the members of the Committee and although defeated received a considerable measure of support.

The issue we consider to be important enough to call for a separate minute of dissent. Throughout the province there has been manifest for decades a tendency of castes of proprietors, large as well as small, to withdraw themselves from labour in the fields, and prefer the relatively easy life of rent-receivers. Thus absentee-landlordism, shrinkage of *sir* holdings, and increase of tenant population of various grades have accompanied the displacement of hereditary cultivating proprietors during the last few decades. Nor have the social standards of the agricultural community itself encouraged peasant ownership and cultivation. Social gradation in the province is governed, by the supremacy of the Brahman and the Thakur who represent the priestly and military aristocratic traditions respectively; but these castes have added to their dignity by ownership of land although they sometimes disdain to drive the plough. Various high cultivating proprietors such as Rajputs, Musalman Rajputs and Saiyids who have lost more heavily by transfers of land during these years have shown themselves to be too steeped in ancient aristocratic traditions to become efficient farmers and their displacement is due to inferior farming and effort to maintain *izzat* or social eminence. On the other hand, among some hereditary cultivating proprietors the Jats and the Gujars (Hindu and Musalman) the Kurmis, the Chamars, and the Lodhas have not only not suffered expropriation, but have actually gained considerable areas of land in different districts because they have proved to be efficient cultivators, employing far less outside labour in their fields and producing better crops than the high castes.

It is, therefore, indispensable to counteract at once the social forces, which encourage absenteeism, costliness and inefficiency of cultivation of many proprietary castes, on the one hand, and the freedom of sale, sub-letting and usufructuary mortgage on the other.

The aim of land policy and legislation of Government in the past has been to maintain in the province the small zamindar as a peasant and to entrust the large zamindar with the privileges of landlords as virtual co-proprietors

with the State. But now the peasant of the United Provinces is no longer the small proprietor or *pattidar*, but the occupancy tenant. The incidence of the *sir* right were formerly clearly intended to assure the zamindar special protection and privilege as the actual tiller of the soil. It will subserve the best interests of efficient farming if inalienability is restricted only to that area of the *sir*, which the zamindar actually cultivates himself, and if such inalienable *sir* may not be sub-let for a period of more than three years. Such modified restriction of alienation will not only stabilize the peasant-proprietor in his holding, but will actually reduce his extravagance, and may even promote a more skilful or productive cultivation through weaning him from that false sense of prestige which so often keeps his holding at the mercy of hirelings.

On the other hand, the restriction of alienation of all ancestral land as such whether the proprietor actually tills or not may have most undesirable and even dangerous consequences. Under-cultivation and misuse of the land will be too common in the case of hereditary high caste proprietors entrenched within their own rights of inalienability. In Meerut and Rohilkhand divisions, where vast public expenditure has been incurred for the purposes of irrigation and other improvements, the hereditary proprietor must not acquire a permanent right to neglect and impoverish the soil, or to disregard the results of agricultural experimentation of recent years. It is in these areas in particular that large scale commercial farming by capitalists as contrasted with small scale subsistence farming has the largest possibilities in this province. Such a possibility as well as the advantage of free flow of credit to the land can only be sacrificed for the prospect of the hereditary zamindar playing his valuable and ancient rôle as the peasant, and not of his turning into an intermediary and rent-receiver by exploiting even the advantage of inalienability. Even in the Punjab, where the peasant is the zamindar there has been a large growth of the tenant population. In this province where all castes, whatever their origin and social function, want to ascend in the social scale by investing capital in land, the practice of sub-letting and sub-inefeudation will be more widespread than in the Punjab when all ancestral land becomes unsaleable. This will no doubt minimize the benefits of restriction of alienation in large measure. For if free sub-letting be permitted, the *pattidar* of the United Provinces, like his brethren the *Jotedars* of Bengal and the *Lingayets* of Bombay, will easily lapse into a rent-receiver and when embarrassed will use sub-leases as substitutes for usufructuary mortgages.

In devising restriction of the transfer of land for the purpose of safeguarding the small holder, it is essential, then, to distinguish between the protection of agriculture as an industry and the protection of an agricultural class or caste, which happens to own land, but will not undertake in full measure its responsibilities by actual cultivation. Nor should the large landlord whose security and wealth are far greater and the causes and circumstances of whose debt far different, and who

besides may come under the protection of the Court of Wards and the Estates Acts claim the benefits of a special protective measure that cannot but abridge credit and increase its price especially for the agricultural classes whose security is worse. An absentee and extravagant proprietor cannot be permitted to hold the land, so to speak, in close, dead grips without grave risks of jeopardising the agricultural development of the province. The *sir*-holder and cultivator is the peasant for whom alone such special laws as the Dekkhan Agriculturists' Relief Act and the Punjab Land Alienation Act were originally meant. We contend that only the *sir*-holder, owned by hereditary or more recent proprietors and cultivated by them should be inalienable, and that no such cultivating owner of *sir* and *khudkasht* of not less than five years should mortgage or sell it, or may be permitted to sub-let it for more than three years and may not sub-let again within a period of three years any portion of such holding which is held by a tenant. This will at once combat the social menace of transfer of land to non-agriculturists, keep the agriculturists to their soil, *sir* and *khudkasht*, make them less dependent and gradually re-establish credit on the firmer foundations of thrift and stabilized interest of the cultivator.

- (Sd.) RADHA KAMAL MUKERJEE.
 (Sd.) JWALA SARAN KOTHIWALA.
 (Sd.) KRISHNAPAL SINGH.
 (Sd.) MADHUSUDAN DAYAL.
 (Sd.) ANAND SARUP.

B.

On the grounds stated in our respective speeches or memoranda submitted we are opposed to the scheme of restriction of alienation of all ancestral properties as such as passed by the majority of the committee, but most of us would consider it less undesirable if such restriction is limited only to *sir* land.

- (Sd.) RADHA KAMAL MUKERJEE,*
 (Sd.) S. K. RUDRA,
 (Sd.) MOHAN LAL SAH,
 (Sd.) KRISHNAPAL SINGH,*
 (Sd.) MADHUSUDAN DAYAL,*
 (Sd.) ANAND SARUP,*
 (Sd.) D. L. DUBEY,†
 (Sd.) JWALA SARAN KOTHIWALA.*

SUB-COMMITTEE No. I. RESOLUTION XV.

I find considerable difficulties in the practical application of the resolution regarding peripatetic money, corn and cloth dealers moved by Professor Rudra and accepted by a majority of the Committee. The function of the Committee is confined to give relief to agriculturists. Peripatetic money-lenders or cloth and corn dealers do not confine their activities to agriculturists alone, their field of operations is wider. To penalize them for doing trade with one section is hardly equitable. License always implies use of some-

thing by the licensee, belonging to the licensor. What is that which the peripatetic licensee is given use of by the licensor, which according to the resolution would be either the Government or the local bodies in this case? Grant of license would further mean restriction on free trade which is repugnant not only to the law of the land, but repugnant also to the economic development of the country. The only object which the majority of the Committee has in view in passing this resolution is to put a stop to some of the nefarious practices associated with peripatetic money-lenders. Such nefarious practices are not confined to peripatetic dealers only. In my experience at the Bar, I have come across worse instances committed at the instance of respectable Mahajans and Sahokars. Further how could grant of licenses check these evils if they exist.

The reason why people fall a prey to the peripatetic dealers are two-fold. In the first place the peripatetic money-lender is not afraid of taking risks. He besides, gives ample time to the borrower to pay the dues. In the second place, there is no place close at hand of the borrower where he can have the same facilities as he can with the peripatetic money-lender or dealer in corn or cloth.

In my opinion, this resolution is fraught with possibilities of greater evil than it is sought to remedy by it. The provisions of the penal laws of the country are ample to meet any cases of hardship which any dealing with a peripatetic money-lender, corn or cloth dealer may bring to light.

SUB-COMMITTEE No. II. RESOLUTION I.

I regret also that I am unable to reconcile myself to the resolution of the Committee regarding the amendment of the Usurious Loans Act. This Act refers to certain classes of debts and not to all debts and the scheme of the Act gives wide discretion to the courts exercising powers under the Act. The provisions of the Act however do not come into play till the court is satisfied that—

- (i) the interest is excessive, and
- (ii) the transaction was as between the parties thereto substantially unfair.

My own experience at the Bar is that it is sometimes difficult to bring about the requisite satisfaction in the mind of the Judges before asking them to exercise the powers mentioned in the subsequent part of the section of the Act. True that the courts will, if the resolution of the Committee is acted upon, be obliged to exercise these powers instead of its being discretionary with them to exercise them or not. But the mandatory part of the section comes into play only when the court is satisfied that the interest is excessive and that the transaction was as between the parties, unfair. Even as the Act at present stands, if the court is so satisfied, it "may" exercise these powers and the word "may" in such cases will have the force of "shall" so that the amendment does not improve matters at all.

If it is really intended to help the agriculturists, I am decidedly of opinion that the courts should be bound to exercise the powers.

*Memorandum annexed.—(A).
 †Speech on pages 79—82.

conferred on them as soon as it is pleaded by the defendant that the interest is excessive or that he has been over reached by the creditor. The amended resolution if translated in the Act, will not certainly improve matters. I will amend the section something as follows:—

“Notwithstanding anything in the Usuary Loans Repeals Act, 1855, wherein any suit to which this Act applies, whether heard *ex parte* or otherwise, when it is alleged by the defendant or the court has otherwise reason to believe—

- (1) that the interest is excessive or
- (2) that the transaction was as between the parties substantially unfair the court shall exercise all or any of the following powers, namely shall—

(1) re-open the transaction.

(2)

(3) etc. etc.

HAFIZ HIDAYAT HOSAIN.

NAINI TAL:

July 6, 1932.

Definition of an “Agriculturist.”

We are convinced that several of the measures of relief of agricultural indebtedness passed by the Committee are of a special protective nature which may reduce the supply of rural credit and increase its price for the cultivator, and we have favoured these only in view of the widespread distress caused by the present agricultural depression. Such emergency measures clearly are not intended for all categories of agriculturists.

It is unfortunate that the definition of an “agriculturist” for the purpose of the proposed measures was not undertaken previously by any of the three sub-committees, appointed

early or by the full Committee itself before it began to pass the resolutions. The sub-committee, which was appointed ultimately submitted a definition which was taken up as the last item and rejected. It is not easy to arrive at a criterion according to which we may differentiate between a large landlord and the small peasant proprietor or *pattidar*, whose economic circumstances are similar to those of the ordinary tenant, and who should claim special protection. As a matter of compromise we suggest the following definition:—

“Agriculturist” means a person who by himself, or by his tenants, servants or hired labourers earns his livelihood principally by agriculture, or engages principally in agricultural labour, provided that he does not pay a land revenue exceeding Rs. 400 per annum, and his income from sources other than agriculture does not exceed Rs. 800 per annum. We hold that the larger landlords cannot be brought under the category of “agriculturists” for the purpose of relief by such proposed measures of relief of indebtedness as, for instance, that no decree against agricultural produce may be executed at more than four harvests or those relating to the settlement of debt and rates of interest without danger, in the first place, of a considerable shrinkage in the supply of credit, and fall of land values, and, in the second place, of such credit being seriously curtailed for the tenants and smaller proprietors who are far poorer and can offer far less adequate security than the large landlords. Thus without such differentiation as we propose the agricultural classes of the poorer grade may be placed in a position of greater disadvantage jeopardising the objects of the Committee.

(Sd.) RADHA KAMAL MUKERJEE,

(Sd.) JAGBHAN SINGH,

(Sd.) KRISHNAPAL SINGH,

(Sd.) MADHUSUDAN DAYAL,

(Sd.) MOHAN LAL SAH.

THE UNITED PROVINCES AGRICULTURISTS' RELIEF ACT, 1934

[PASSED BY THE LEGISLATIVE COUNCIL OF THE UNITED PROVINCES OF AGRA AND OUDH]

An Act to make provision for the relief of agriculturists from indebtedness.

WHEREAS it is expedient to make provision for the relief of agriculturists from indebtedness;

AND WHEREAS the previous sanction of the Governor General under section 80-A (3) (e) of the Government of India Act has been obtained to the passing of this Act;

It is hereby enacted as follows :

5 and 6, Geo. V, C. 81.
6 and 7, Geo. V, C. 87.
9 and 10, Geo. V, C. 101.

CHAPTER I—PRELIMINARY

Short title, extent and commencement.

1. (1) This Act may be called the United Provinces Agriculturists' Relief Act, 1934.

(2) It extends to the whole of the United Provinces of Agra and Oudh :

(3) It extends to the whole of the United Provinces of Agra and Oudh :

Provided that the provisions of Chapter III shall not apply to any mortgage to which the provisions of the Bundelkhand Land Alienation Act, 1903 are applicable.

(3) The Local Government may, after obtaining the approval of the Legislative Council, by notification in the Gazette, direct that all or any of the provisions of the Act shall not apply to any area which it may specify in the notification.

(4) It shall come into force on such date as the Local Government may by notification direct.

Interpretation clauses.

2. In this Act, unless there is anything repugnant in the subject or context—

(1) "Agricultural calamity" means, with reference to a particular debtor, a calamity other than a slump in prices on account of which

(a) if the debtor is a revenue paying landlord, or an under-proprietor in Oudh holding a sub-settlement, there has been a suspension or remission of the revenue of any of his holdings; or

(b) if the debtor is a landlord, holding land free of revenue, there would have been a suspension or remission of the revenue of any of his holdings if revenue had been payable therefor; or

(c) if the debtor is a thekadar of land, there has been a suspension or remission of the rent of any holding payable to him; or

(d) if the debtor is a tenant of land or a person other than a thekadar or an under-proprietor in Oudh holding a sub-settlement and paying rent for his land, there has been a suspension or remission of the rent of any holding payable by him.

United Provinces Act II of 1934.

(2) "Agriculturist" means, in all sections of the Act where the term is used—

(a) a person who, in districts not subject to the Benares Permanent Settlement Regulation, 1795, pays land revenue not exceeding Rs.1,000 per annum; or

Regulation I of 1795.

(b) a person who, in districts subject to the Benares Permanent Settlement Regulation, 1795, pays a local rate under section 109 of the District Boards Act, 1922, not exceeding Rs.120 per annum; or

Regulation I of 1795.

United Provinces Act X of 1922.

(c) a person holding land free of revenue, who pays a local rate under section 109 of the District Boards Act, 1922, not exceeding Rs.120 per annum; or

United Provinces Act X of 1922.

(d) in Oudh, an under-proprietor holding a sub-settlement of land the revenue of which does not exceed Rs.1,000 per annum; or

(e) a thekadar who holds a theka of land the revenue of which does not exceed Rs.1,000 per annum; or

(f) a person, other than a thekadar or an under-proprietor in Oudh holding a sub-settlement, who pays rent for agricultural land not exceeding Rs.500 per annum; or

(g) a person holding land free of rent, the area of which does not exceed 80 acres; or

(h) a person ordinarily living outside the limits of any municipality who belongs to any of the classes of persons mentioned in schedule I:

Provided that in sections 2(10)(a), 3, 4, 5, 8 and Chapters IV and V an agriculturist means also a person who would belong to a class of persons mentioned in parts (a) to (g) of this sub-section, if the limits of land revenue, local rates, rent and area mentioned in these parts were omitted:

Provided also that no person shall be deemed to be an agriculturist if he is assessed to income-tax, which, if he belongs to any of the classes (a) to (e) above, exceeds the local rate payable on the land which he holds, or, if he belongs to class (f) above, exceeds 5 per cent. of his rent, or, if he belongs to class (g) above, exceeds Rs.25.

Provided further that if an agriculturist joins with a non-agriculturist in any transaction of loan or mortgage, he shall not be considered to be an agriculturist in respect of that transaction.

Explanation I.—In this sub-section "revenue" and "rent" mean revenue and rent payable irrespective of the remission that may be granted for the slump in prices or for agricultural calamities.

Explanation II.—In the case of members of a joint Hindu family or joint owners or joint tenants, each member or owner or tenant shall be considered to be an agriculturist for the purposes of Chapters II (except sections 3, 4, 5 and 8) III and VI, whose share or interest in revenue, local rate or rent or the rent-free land, as the

case may be, does not respectively exceed the aforesaid limits.

Explanation III.—In Oudh an under-proprietor of specific plots not holding a sub-settlement and paying rent not exceeding Rs.500 per annum is an agriculturist.

Explanation IV.—The word "rent" in this sub-section includes, in cases where rent is payable in kind the money equivalent thereof recorded in the *khatauni* of the previous year.

Explanation V.—The word "rent" in this sub-section shall not include *said mutalba* or any amount paid in excess of the rent legally payable.

Explanation VI.—When a person pays both rent and revenue, he shall not be deemed to be an agriculturist for the purposes of Chapters II (except sections 3, 4, 5 and 8), III and VI, if the total of the rent and revenue annually payable by him exceeds Rs.1,000, or if he is excluded from the definition of agriculturist under any of the clauses (a) to (g).

Regulation I of 1795.

Explanation VII.—When a person, holding land in districts subject to the Benares Permanent Settlement Regulation, 1795, or holding land free of revenue, pays both rent and local rate, he shall not be deemed to be an agriculturist if the total of the rent and local rate annually payable by him exceeds Rs.500.

Illustrations

(i) A person who pays Rs.800 as revenue and Rs.400 as rent is not an agriculturist as the total of rent and revenue exceeds the limit of Rs.1,000.

(ii) A person pays Rs.200 as revenue and Rs.600 as rent. He comes under clause (a) but not under clause (f) he is not therefore an agriculturist.

II of 1899.

(3) "Bond" means a bond as defined in section 2 of the Indian Stamp Act, 1899.

United Provinces Act III of 1901.

(4) "Collector" means the officer appointed as Collector of a district under the Land Revenue Act, 1901.

(5) "Court" means a civil court.

United Provinces Act II of 1912.

(6) "Co-operative Society" means a society registered under the provisions of the Co-operative Societies Act, 1912.

(7) "Creditor" in Chapter V means a person who, in the regular course of business, advances a loan as defined in this Act, and includes the legal representatives and the successors-in-interest, whether by inheritance, assignment or otherwise, of a creditor.

(8) "Interest" includes the return to be made over and above what was actually lent, whether the same is charged or sought to be recovered specifically by way of interest or in the form of service or otherwise.

United Provinces Act III of 1926.

(9) "Land" and "landlord" shall have the same meaning as in the Agra Tenancy Act, 1926.

(10) (a) "Loan" means an advance to an agriculturist, whether of money or in kind, and shall include any transaction which is in substance a loan, but shall not include—

(i) a loan advanced by the Local Government or by any Municipal, District or Cantonment Board

authorized by the Local Government to advance loans, or by a Co-operative Society ;

- (ii) except for the purposes of sections 7, 8, 35(1), 37, 38 and 41, small loans not exceeding Rs.20 repayable within a year in fixed equated instalments the total of which does not exceed the principal by more than 10 or 20 per cent. according as the instalments are spread over a period of less than six months or more than six months, provided that no further interest is charged in addition to fixed equated instalments; and
- (iii) a loan of agricultural produce repayable at the next harvest with not more than one quarter of the quantity of the said produce by way of interest.

Explanation.—A loan advanced as one transaction shall, for the purpose of sub-clause (ii), be deemed to be one loan, even though it is evidenced by several separate documents or by separate entries in a document.

(b) "Secured loan" means a loan for which property other than agricultural produce is specifically hypothecated as security.

(c) "Unsecured loan" means a loan which is not secured.

(11) "Money" shall be deemed to include agricultural produce, implements and stock.

(12) "Prescribed" means prescribed by this Act, or by rules made under this Act.

(13) "Thekadar" shall have the same meaning as in the Agra Tenancy Act, 1926.

(14) "Under-proprietor" shall have the same meaning as in the Oudh Rent Act, 1886.

United Provinces Act III
of 1926.

United Provinces Act
XXII of 1886.

CHAPTER II—SUITS AGAINST AGRICULTURISTS

3. (1) Notwithstanding any provision in the Code of Civil Procedure, 1908 to the contrary, the Court, at the time of passing a decree for money or for sale in default of payment of money against an agriculturist, may, and, on the application of such agriculturist, shall, unless for reasons to be recorded it directs otherwise, direct that the total amount found due for principal, interest up to the date of the decree, and costs, if any, shall be paid in such number of instalments payable on the dates fixed by the court as, having regard to the circumstances of the judgment-debtor and the amount of the decree, the Court considers proper :

V of 1908.

Provided that the period of such instalments shall not extend beyond four years from the date of the decree in the case of an agriculturist to whom Chapter III applies, and beyond 20 years from such date in the case of an agriculturist to whom Chapter IV applies :

Provided further that, if the court is satisfied that on account of an agricultural calamity the payment of any

instalment by a judgment-debtor is likely to cause hardship, it may, after notice to the decree-holder, allow such further time for payment of such instalment as it may consider proper.

IV of 1882.

(2) The Court may, at the time of passing an instalment decree against an agriculturist, either attach his immoveable property, if any, or declare a charge on such property within the meaning of section 100 Transfer of Property Act, 1882 to the extent of the amount decreed.

V of 1908.

(3) An attachment under sub-section (2) shall, unless the Court directs otherwise, subsist until the decree has been paid off or otherwise satisfied, and all provisions in the Code of Civil Procedure, 1908 relating to attachment in execution of decrees and to investigation of claims to attached property shall apply to such attachment.

(4) If the decree provides for payment by instalments, the Court shall direct that, where the number of instalments allowed is four or five and any two instalments are in arrears, or where the number allowed is six or more and any three instalments are in arrears, the decree-holder may immediately enforce payment of the whole amount then remaining due under the decree.

(5) Nothing in any order made in an instalment decree shall debar a judgment-debtor from paying at any time, towards the satisfaction of the decree, the whole of the amount that may be due thereunder or any amount exceeding the amount of an instalment that may be fixed under the decree.

V of 1908.

4. Notwithstanding anything contained in the Code of Civil Procedure, 1908, the rate at which future interest may be allowed in any decree for payment of money or for sale in default of payment of money passed against an agriculturist shall not exceed, in the case of an agriculturist to whom Chapter III applies, 2 per cent. per annum and, in the case of other agriculturists, 3 per cent. per annum:

Provided that in cases of decrees passed on the basis of loans taken after such date as may be notified by the Local Government in the Gazette in this behalf, the Court may allow future interest at a rate not exceeding 3 per cent. per annum in the case of agriculturists to whom Chapter III applies and $4\frac{1}{2}$ per cent. per annum in the case of other agriculturists, but in cases to which section 32 applies no future interest in excess of that specified in schedule V shall be allowed.

V of 1908.

5. Notwithstanding anything contained in the Code of Civil Procedure, 1908, the Court shall, unless for reasons to be recorded it directs otherwise, at any time, on the application of the judgment-debtor and after notice to the decree-holder, direct that the amount of any decree passed against an agriculturist, whether before or after this Act comes into force, shall be paid by instalments arranged in the same manner as provided in section 3.

6. In no case shall a decree passed by a civil court against an agriculturist be executed by attachment or sale of agricultural produce after a period of four years calculated from the date of the filing of the first application for execution :

Limit to the execution of decree by sale of agricultural produce.

Provided that the period during which more than one quarter of the holding of the judgment-debtor has been sub-let or during which the judgment-debtor has suffered from an agricultural calamity shall be excluded from the period of four years mentioned in this section.

7. Notwithstanding anything contained in any other enactment for the time being in force, every suit for recovering a loan in which the defendant, or, where there are several defendants, any of the defendants, is an agriculturist, shall be instituted and tried in a court within the local limits of whose jurisdiction—

- Forum of suits against agriculturists.
- (a) the agriculturist defendant, or any of the agriculturist defendants, where there are more than one such defendants, actually and voluntarily resides; or
 - (b) in case the agriculturist defendant, or all the agriculturist defendants, reside outside the limits of the United Provinces of Agra and Oudh—
 - (1) the holding or the landed property of the agriculturist defendant, or any of them, if there are more than one such defendants, is situate, and
 - (2) if the agriculturist defendant or none of the agriculturist defendants has a holding or landed property, the agriculturist defendant or any of them, if there are more than one such defendant, carries on the profession by virtue of which he is classed as an agriculturist.

8. (1) No person shall be deemed to be an agriculturist for the purposes of this chapter unless he was an agriculturist both at the time of the advance of the loan as well as at the date of the suit :

Change in the status of an agriculturist.

Provided that, if a person has a subsisting interest in land, but, by reason of a temporary transfer or for any other similar reason, does not for the time being pay any rent or revenue in respect thereof, he will not merely by reason of such non-payment cease to be an agriculturist.

(2) For the purposes of sections 3, 5 and 6 any change in the status of the defendant subsequent to the date of the suit in which the decree was passed shall be ignored.

CHAPTER III—MORTGAGES AND THEIR REDEMPTION

9. Notwithstanding anything contained in the Transfer of Property Act, 1882, no mortgage of land or grove by an agriculturist made after the commencement of this Act

Form of possessory mortgage.

IV of 1882.

shall be valid if, under the terms of such mortgage, possession of the mortgaged land or grove is delivered to the mortgagee, unless the mortgagee is authorized to retain such possession and to receive the rents and profits of such land or grove both in lieu of interest and towards payment of the principal, on condition that after the expiry of a fixed term not exceeding twenty years, the mortgaged land or grove shall be re-delivered to the mortgagor and the mortgage debt shall be deemed to have been discharged.

Explanation (1).—For the purposes of this section “land” means and includes land which forms a mahal or a share or a portion of a mahal or specified plots in a mahal.

Explanation (2).—Nothing in this section shall be construed to confer a right of effecting usufructuary mortgage of land on persons who do not possess transferable rights in such land.

10. Applications under this chapter shall, if the principal money secured does not exceed Rs.500 be brought before the Collector, and the word “court” in this chapter shall in such cases include the “Collector.”

11. If a mortgagee holding possession under a mortgage made after the commencement of this Act by an agriculturist, remains in possession after the expiry of the period for which he is entitled to hold and on the expiry of which he is bound to deliver back the mortgaged property without any payment by the mortgagor, the Court shall, on the application of the person entitled to possession, direct that the mortgage be redeemed, eject such mortgagee, and place the person so entitled in possession, and may also direct the mortgagee to pay such compensation to the person found to have been wrongly kept out of possession as it may deem reasonable.

12. Notwithstanding anything contained in section 83 of the Transfer of Property Act, 1882 or any contract to the contrary, an agriculturist who has made a mortgage either before or after the passing of this Act, or any other person entitled to institute a suit for redemption of the mortgage, may, at any time after the principal money has become due, and, before a suit for redemption is barred, file an application before the Court within whose jurisdiction the mortgaged property or any part of it is situate, in such form and giving such particulars as the Local Government may by rule prescribe, and praying for an order directing that the mortgage be redeemed, and, where the mortgage is with possession, that he be put in possession of the mortgaged property. The application shall be duly verified in the manner prescribed by law for the verification of plaints and shall state the sum which the applicant declares to the best of his belief to be due under the mortgage. The applicant shall at the same time deposit such sum with the Court.

Explanation.—For the purposes of sections 11 and 12 the word “property” includes grove.

13. When the application has been duly presented and the deposit has been made, the Court shall issue a notice to the mortgagee to show cause on a day to be fixed in the notice why redemption should not be allowed.

14. If the mortgagee appears and accepts the deposit in full discharge of his mortgage, the Court shall order that the mortgage be redeemed, that the money deposited by the applicant be paid to the mortgagee and that the title deeds, if any, in possession or power of the mortgagee shall be deposited in Court and be delivered to the mortgagor.

15. If on the date fixed the applicant does not appear and the mortgagee does not accept the deposit in full discharge of the mortgage, the Court shall reject the application.

16. If, on the date fixed or any subsequent date to which the proceedings may have been postponed, the applicant appears and the mortgagee does not appear in spite of notice, or the mortgagee appears and does not accept the money deposited by the applicant in full discharge of his mortgage or objects to redemption of the mortgage on any other ground, the Court shall hold an enquiry to determine whether the applicant is entitled to redeem the mortgage and whether the money deposited by him is sufficient. If the Court finds that the applicant is not entitled to redeem, it shall reject the application. If it finds that the applicant is entitled to redeem, but must pay a larger amount than that deposited by him, the Court shall order the applicant to deposit the balance within a fixed period. If the applicant fails to deposit the said balance, the Court shall reject his application. If the Court finds that the applicant is entitled to redeem and that the amount deposited by him was sufficient or if it was not sufficient, the applicant has deposited the balance within the time fixed, it shall order that the mortgage be redeemed, that the money deposited be paid to the mortgagee, and that the title deeds, if any, in possession or power of the mortgagee shall be deposited in Court and shall be delivered to the mortgagor.

17. Where the mortgagor has deposited with the Court a sum which is accepted by the mortgagee under section 14, or is held by the Court to be sufficient under section 16, interest on such sum shall cease to run from the date of deposit.

Where the Court finds that a larger amount than that deposited by the mortgagor is due, and the balance is deposited by the applicant, interest shall cease to run from the date of deposit of such balance.

18. In all cases in which the Court orders redemption, it shall, if necessary, also put the applicant in possession of the mortgaged property, subject to any condition of the mortgage whereby a season or period of the year is fixed for surrendering possession,

19. If the application is rejected, the Court shall return to the applicant the money deposited by him.

Return of deposit.

20. No sum deposited by an applicant under the provisions of this chapter shall, while in such deposit, be attached by any court or revenue officer in enforcement of any claim against the applicant other than a claim arising out of the mortgage.

Deposit not to be attached.

21. The words "mortgagor" and "mortgagee" in this chapter include respectively the terms "mortgagor" and "mortgagee" to include their successors. successors-in-title of the original mortgagor and the original mortgagee.

22. (1) The Local Government may empower any Assistant Collector of the first class to exercise the powers of a Collector under this chapter.

Investment of powers on Assistant Collectors and transfer of proceedings.

(2) The Collector may transfer any proceedings under this chapter—

- (a) from his own court to that of an Assistant Collector empowered under sub-section (1);
- (b) from the court of an Assistant Collector subordinate to him either to his own court or to that of any other Assistant Collector empowered under sub-section (1).

23. (1) An appeal shall lie to the District Judge from an order of a Collector or Assistant Collector passed under this chapter.

Appeals.

An appeal shall lie from the order of a civil court passed under this chapter to the court to which original decrees passed by such court are ordinarily appealable, and where such decrees are appealable to more courts than one, to the court of lowest jurisdiction.

(2) No appeal shall lie from an appellate order passed under this section.

24. (1) No application under section 11 or 12 shall be filed unless—

When application can be filed under this chapter.

- (a) the applicant is an "agriculturist" on the date of the application, and
- (b) the mortgagor was an "agriculturist" at the time of the mortgage.

(2) In cases in which the status of a mortgagor as "agriculturist" on the date of mortgage is at issue and no documentary evidence is forthcoming to prove it, the status of the mortgagor on that date shall be determined with reference to the entries in the record of rights or the annual registers prepared under the Land Revenue Act, 1901, of the year nearest to the year of mortgage for which they exist.

25. No suit shall be brought in any court for any relief which can be obtained by an application under this chapter.

Bar of suit.

26. (1) The limitation for making an application for redemption under this Chapter shall be the same as that provided in the Indian Limitation Act, 1908 for a suit for redemption. IX of 1908.

(2) The limitation for filing appeals and for execution of orders under Chapter III shall be the same as that prescribed by law respectively for appeals under the Code of Civil Procedure, 1908, and for decrees passed by Civil Courts. V of 1908.

(3) The provision of sections 6, 7, 8, 19 and 21 of the Indian Limitation Act, 1908, shall apply to applications under this Chapter and the provisions of section 5 of the said Act shall apply to appeals under this Chapter. IX of 1908.

27. The provisions in the Code of Civil Procedure, 1908, in regard to suits shall be followed, so far as they can be made applicable, to all proceedings under this Chapter, and all orders passed under this Chapter shall be executed in the manner prescribed for execution of Civil Court decrees. V of 1908.

Applicability of the Code of Civil Procedure to proceeding under this Chapter.

CHAPTER IV--RATES OF INTEREST

28. (1) Notwithstanding anything in any contract to the contrary, no loan taken by an agriculturist after the date notified by the Local Government in the Gazette in this behalf shall bear interest at a rate higher than that notified by the Local Government under sub-section (2) as the prevailing rate of interest for the particular class of loan at the time the loan was taken.

Rate of interest on loans taken after the passing of this Act above which the debtor is not liable to pay.

(2) As soon as possible after the rate of interest at which the Government of India will lend money to the Local Government is announced from time to time, the Local Government shall notify in the Gazette, and shall publish in such other manner as it thinks proper, the rates which shall be the prevailing rates of interest on secured and unsecured loans of the various classes mentioned in schedule II contracted during the period such prevailing rates shall remain in force. Such prevailing rates shall come into force from such date as may be notified by the Local Government and shall remain in force until superseded by new rates, provided that the minimum period during which they shall remain in force shall be one year.

(3) Such prevailing rates as are referred to in sub-section (2) shall be fixed at the percentage rates specified for different classes of loans in schedule II above the rate of interest at which the Local Government borrows from the Government of India.

29. If an unsecured loan taken after the date on which this Act comes into force, is, if it is not a loan for a fixed term, repaid within two years of the date of the taking of the loan, or, if it is a loan for a fixed period, is repaid within such period, the

Benefit for prompt payment of loans taken after the passing of this Act.

debtor shall not be liable to pay interest at a rate higher than the prevailing rate of interest for a secured loan of the same class in force at the time the loan was taken.

30. (1) Notwithstanding anything in any contract to the contrary, in the case of loans taken between January 1, 1917 and January 1, 1930, taken during the period between January 1, 1917 and January 1, 1930, no debtor shall be liable to pay—

(a) for the period from the date on which the loan was taken till January 1, 1930, interest at a rate higher than that specified in schedule III; and

(b) for the period from January 1, 1930, till such date as may be fixed by the Local Government by notification in the Gazette, interest higher than at the rate specified in Schedule IV.

(2) Any amount already received by the creditor on account of interest in excess of that due under the provisions of this section shall be credited towards the principal; but nothing in this section shall be deemed to entitle a debtor to claim refund of any part of the interest already paid by him.

31. (1) Notwithstanding anything in any contract to the contrary, in the case of loans taken after January 1, 1930 and before such date as may be fixed by the Local Government by notification in the Gazette in this behalf, no debtor shall be liable to pay interest higher than at the rate specified in Schedule IV.

(2) Any amount already received by the creditor on account of interest in excess of that due under the provisions of this section shall be credited towards the principal; but nothing in this section shall be deemed to entitle a debtor to claim refund of any part of the interest already paid by him.

32. (1) Notwithstanding anything in any contract to the contrary, no loan shall bear interest at a rate higher than that specified in schedule V, calculated on the principal or such part of it as has not already been repaid, after a sum equal to 100 per cent. of the principal, in the case of secured loans, and 150 per cent. of the principal, in the case of unsecured loans, has been realized or has accrued at the contractual rate on account of interest on such loans.

(2) Any amount already received by the creditor on account of interest in excess of that due under the provisions of this section shall be credited towards principal; but nothing in this section shall be deemed to entitle a debtor to claim refund of any part of the interest already paid by him.

Explanation.—In the case of loans which have subsequently been compounded the word 'principal' in this section means—

(i) if the original loan was taken on or after January 1, 1910, the amount of such original loan, together

with the amount of any additional loan or loans taken at the time of each such compounding, and
(ii) if the original loan was taken before January 1, 1910, the amount of such original loan if it was not compounded before that date or, if the loan was compounded before that date, the amount at which it was last so compounded, together with, in either case, the amount of any additional loan or loans taken at any compounding on or after January 1, 1910.

33. (1) If before the commencement of this Act a decree has been passed on the basis of any loan to which the provisions of section 30 or 31 would have applied and has not yet been satisfied, the judgment-debtor may, notwithstanding the provisions of any other law for the time being in force, within the period of one year from the commencement of this Act apply for amendment of the decree to the Court which passed the decree, or, if the decree was passed on appeal, to the Court of first instance in which the suit was originally tried.

(2) On the making of such application the Court shall reopen the account between the parties and determine the amount which would have been payable under the decree on the date of the decree if interest had been calculated in accordance with the provisions of sections 30, 31 and 32 and shall amend the decree by substituting such amount for that entered in the decree, and by substituting such order for future interest as could be passed under section 4:

Provided that the decree shall not be so amended as to increase the liability of the judgment-debtor:

Provided also that the judgment-debtor shall not be entitled to claim refund of any amount which he may have paid in excess of that which may be found due to the decree-holder under the decree as amended under this section.

(3) The Court may, pending the disposal of such application, stay all proceedings for execution of the decree sought to be amended.

(4) For the purposes of section 48 of the Code of Civil Procedure, 1908, the amended decree shall be deemed to bear the date of the original decree, and the period during which the execution of the decree remains stayed under an order passed under sub-section (3) shall be excluded from the period prescribed by that section.

V of 1908.

(5) If before the commencement of this Act a Civil Court decree passed on a loan to which the provisions of sections 30 or 31 would have applied has been adjusted between the parties by a new contract in the nature of a loan entered into by the judgment-debtor and a suit is instituted on the basis of such contract, the debtor may claim that his liability should be determined by reopening the account between the parties in the manner provided in sub-section (6).

(6) On such claim being made the Court shall determine the amount which would on the date of such adjustment have been due under the decree if at the time of passing the decree interest had been calculated in accordance with the provisions of sections 30, 31 and 32 and future interest had been allowed in accordance with section 4 and if such amount is less than the amount entered in the contract as being due under the decree, such amount instead of the latter, shall be treated as principal, or part of principal, as the case may be, of the contract in suit.

CHAPTER V—MAINTENANCE OF ACCOUNTS

34. (1) A creditor shall, after the date on which this Act comes into force,—
Duty of creditor to maintain and furnish accounts.

(a) regularly record and maintain a correct account for each agriculturist debtor of all transactions relating to each loan advanced to that debtor, in such manner as the Local Government may prescribe; and

(b) supply each agriculturist debtor every year with a full and correct statement of account signed by the creditor or his agent of any balance or amount that may be outstanding against such debtor on account of each separate loan on such date as the Local Government may prescribe in this behalf. Such statement of account shall include all transactions entered into during the year to which the statement relates, and shall contain such details and particulars as the Local Government may prescribe. It shall be supplied to the debtor within one month of the aforesaid date in such form and in such manner as the Local Government may prescribe.

(2) A person to whom a statement of account has been submitted under sub-section (1) shall not be bound to acknowledge or deny its correctness and his failure to protest shall not, by itself, be deemed to be an admission of correctness of the account.

(3) The account prescribed under sub-section (1)(a) shall be deemed to be regularly kept in the course of business for the purposes of section 34, Indian Evidence Act, 1872, and copies of entries in such account certified in such manner as may be prescribed shall be admissible in evidence for any purpose in the same manner and to the same extent as the original entries.

35. (1) An agriculturist debtor may sue for an account of money lent or advanced to, or paid for, him by any person, or due by him to any person as the price of goods or on a written or unwritten engagement for the payment of money, and of money paid by him to such person.

(2) In such suit the Court shall follow the provisions of Chapter IV of this Act and the provisions of the Usurious Loans Act. It shall, after taking necessary accounts, declare the amount which is still payable by the plaintiff to the defendant, and shall on the application of the defendant, and if the money is payable, pass a decree in favour of the defendant.

X of 1918.

(3) Subject to section 30(2) or section 32(2), as the case may be, if the defendant is found to have been overpaid, the court shall pass a decree for refund of the amount of such overpayment in favour of the plaintiff.

36. Notwithstanding anything contained in any other enactment for the time being in force,—
Penalty for non-compliance with the provision of section 24,

(a) in any suit or proceeding relating to a loan against an agriculturist, if the debtor objects that the creditor has not complied with the provisions of section 34, the Court shall determine such objection before deciding the claim on the merits ;

(b) if the Court finds that the provisions of clause (a) of section 34 have not been complied with by the creditor, it may, if the creditor's claim is established in whole or in part, disallow the whole or a portion of the interest found due, as it may deem reasonable in the circumstances of the case, and shall disallow the creditor's costs ;

(c) if the Court finds that the provisions of clause (b) of section 34(1) have not been complied with by the creditor, the Court shall in computing the amount of interest due upon the loan exclude every period for which the creditor has failed to comply with the said provision :

Provided that if the creditor has, after the time prescribed in the said clause, furnished the account and satisfies the Court that he had sufficient cause for not furnishing it earlier, the Court shall notwithstanding such omission, include any such period or periods for the purpose of computing the interest :

Provided further that if the creditor has submitted an account which is not full and correct, and satisfies the court that the omission or error was *bona fide* and due to inadvertence, the Court shall, notwithstanding such omission or error, include any such period or periods for the purpose of computing the interest.

Explanation.—A person who has kept his account and submitted his yearly statement of account in the form and manner prescribed in clauses (a) and (b) of sub-section (1) of section 34 shall be held to have complied with the provisions of these clauses, in spite of any errors and omissions, if the Court finds that the errors and omissions were accidental and not material and that the accounts have been kept in good faith with the intention of complying with the provisions of these clauses,

37. (1) Any creditor who, after the commencement of this Act, records in his book of accounts or in the statement of account submitted to the debtor as lent to an agriculturist a sum larger than that actually lent, whether by way of charges for expenses, inquiries, fines, bonuses, premia, renewals, or otherwise, shall be punished for the first offence with fine which may extend to one hundred rupees, and, for a second or subsequent offence with regard to the same or any other agriculturist, with fine which may extend to five hundred rupees.

(2) Where in any suit concerning a loan taken by an agriculturist the Court finds that the creditor has, without reasonable cause, refused or neglected to deliver to the debtor a receipt for any payment by him on account of such loan or to credit such payment on the written instrument securing such loan, it may award the debtor such compensation not exceeding double the amount of such payment as it may consider proper.

38. The provisions of sections 34, 36 and 37 shall not, in the case of a loan advanced before the commencement of this Act, apply to the period prior to the commencement of this Act.

CHAPTER VI—MISCELLANEOUS

39. When a loan has been advanced in kind, a debtor may at his option repay it either in the same kind or in cash at a fair rate, if no rate has been agreed upon, or in any other form and at the rate agreed upon between the creditor and himself:

A loan taken in kind may be paid by the debtor at his option in the same or another kind.

Provided that if there is a dispute about the fairness of the rate, the question shall be referred either by the creditor or the debtor to the Collector, whose decision shall be final.

40. (1) A debtor may at any time, whether during the pendency of a suit or otherwise, deposit in court a sum of money not less than one-fourth of the amount due at the time in full or part payment of a loan, not being a loan secured by a mortgage, and may apply that such sum be paid to the person to whom it is due.

(2) The Court shall give notice of such deposit to the creditor and shall on his application pay the amount of deposit to him.

(3) From the date of such deposit interest shall cease to run on the amount so deposited.

41. (1) Every loan given after the date on which this Act comes into force shall be evidenced by a written document, of which a copy shall be given to the debtor and which shall contain the details prescribed by rules framed under section 43 in addition to the details mentioned in sub-section (2) of this section.

Preparation of a document for every loan and the supply of a copy to the debtor.

(2) In the case of unsecured loans, an entry shall be made in every such document specifying the date by which repayment must be made in order to earn the benefit of section 29 and the rate of interest which shall prevail if repayment is made by such date.

(3) No interest shall accrue on any loan until a copy of the written document prepared according to the provisions of sub-sections (1) and (2) has been supplied to the debtor as required by sub-section (1).

(4) Notwithstanding anything in the Indian Stamp Act, 1899, no such written document as is referred to in sub-section (1) shall require a stamp duty higher than that which would have been payable in respect thereof had it not contained the details mentioned in sub-sections (1) and (2).

II of 1899.

42. (1) Notwithstanding anything contained in the Stamp duty, etc. on Indian Stamp Act, 1899, and the certain bonds by agriculturists. rules made under the Indian Registration Act, 1908, the stamp duty and the registration and copying fees on bonds of value or amount not exceeding rupees three thousand, executed by an agriculturist and registered under the Indian Registration Act, shall be as laid down in schedule VI.

II of 1899.

XVI of 1908.

(2) If a bond is executed on a form printed under the authority of the Local Government, no copying fee shall be leviable for making a copy or a note of the bond in the books prescribed under the Indian Registration Act, 1908.

XVI of 1908.

43. (1) The Local Government may make rules consistent with this Act for the purpose of carrying out the provisions of this Act.

(2) Before making the rules under this section the Local Government shall publish a draft of the same in the Gazette and shall concurrently cause a copy of the said draft to be sent to every member of the Legislative Council.

(3) In making the rules finally the Local Government shall consider the opinions received by them as well as any opinion expressed by the Legislative Council.

44. Except as otherwise provided by this Act no order passed by the Local Government or the Collector under this Act shall be called in question in a civil court.

Exclusion of jurisdiction of civil courts.

SCHEDULE I

The classes mentioned in section 2(2) (h).

Agricultural labourers, general labourers, cowherds, goatherds, dairymen, blacksmiths, carpenters, fishers, hunters, boatmen, barbers, tanners, and leather-workers, scavengers, basket-makers, potters, midwives, watchmen, washermen, weavers or other servants of the village community or any similar class of persons whom the Local Government may, by notification in the Gazette, from time to time include in this schedule.

SCHEDULE II.

Percentage rates mentioned in section 28 by which the prevailing rate of interest should exceed the percentage rate at which the Local Government borrow from the Government of India.

Amount of loan	Secured loans		Unsecured loans	
	Compound per cent. per annum with yearly rests	Simple per cent. per annum	Compound per cent. per annum with yearly rests	Simple per cent. per annum
(a) Rs. 500 and under	3	5½	7½	10½
(b) Rs. 501 to Rs. 5,000	2½	4½	6	8
(c) Rs. 5,001 to Rs. 20,000	2	3½	4½	6½
(d) Rs. 20,001 to rupees one lakh	1½	2½	3½	5
(e) Over rupees one lakh	1	1½	2½	3½

SCHEDULE III

Percentage rates mentioned in section 30

Amount of loan	Secured loans		Unsecured loans	
	Compound per cent. per annum with yearly rests	Simple per cent. per annum	Compound per cent. per annum with yearly rests	Simple per cent. per annum
(a) Rs. 500 and under	7½	10	12	15
(b) Rs. 501 to Rs. 5,000	7	9	10½	12½
(c) Rs. 5,001 to Rs. 20,000	6½	8	9	11
(d) Rs. 20,001 to rupees one lakh	6	7	8	9½
(e) Over rupees one lakh	5½	6	7	8

SCHEDULE IV

Rates of interest for sections 30 and 31

Amount of loan	Secured	Unsecured
(a) Rs. 500 and under	10 per cent. per annum Simple.	15 per cent. per annum Simple.
(b) Rs. 501 to Rs. 5,000	9	12½
(c) Rs. 5,001 to Rs. 20,000	8	11
(d) Rs. 20,001 to rupees one lakh	7	9½
(e) Over rupees one lakh	6	8

SCHEDULE V

Rates of interest mentioned in section 32

Time of the taking of the loan	Secured loans	Unsecured loans
If the loan was taken before this Act came into force.	Simple interest at 3½ per cent. per annum.	Simple interest at 5½ per cent. per annum.
If the loan was taken after this Act came into force.	Simple interest at the rate at which the Local Government borrows from the Government of India at the time when the 100 per cent. or 150 per cent. as the case may be, specified in section 32 is reached.	Simple interest at 2 per cent. above the rate at which the Local Government borrows from the Government of India at the time when the 100 per cent. or 150 per cent. as the case may be, specified in section 32 is reached.

SCHEDULE VI

Scale mentioned in section 31

Amount or value of the bond	Stamp duty		Registration fee		Copying fee
	Rs.	a.	Rs.	a.	As.
Where the amount or value secured does not exceed Rs.50.	0	1	0	1	8
Where it exceeds Rs.50 but does not exceed Rs.100	0	2	0	2	8
Ditto Rs.100 ditto Rs.200	0	4	0	4	4
Ditto Rs.200 ditto Rs.300	0	6	0	6	6
Ditto Rs.300 ditto Rs.400	0	8	0	8	8
Ditto Rs.400 ditto Rs.500	0	12	0	12	10
Ditto Rs.500 ditto Rs.600	1	10	2	4	12
Ditto Rs.600 ditto Rs.700	2	0	2	4	12
Ditto Rs.700 ditto Rs.800	2	6	2	4	12
Ditto Rs.800 ditto Rs.900	2	12	2	4	12
Ditto Rs.900 ditto Rs.1,000	2	2	2	4	12
For every Rs.250 or part of Rs.250 above Rs.1,000 and up to Rs.3,000.	1	0	0	4	Nil

BANKERS' MEMORANDUM
ON
THE AGRICULTURISTS' RELIEF ACT.

N. K. Press, Lucknow.

MEMORANDUM.

The Agriculturists Relief Bill is supposed to be enacted in the interests of those who may be described as really "poor agriculturists" but the provisions of the Bill are step by step made so general and wide that the lion's share of the wrongful gain is likely to go to those who do not deserve any such help or assistance in any way.

It would serve no useful purpose to go into the details of the definition of the word "agriculturist" as it finds place in the present Bill but the Bankers' Association with a view to cut short the matter are prepared to agree that if the provisions of the bill provide relief to the poor agriculturist they would not be backward in making sacrifices in more ways than one. But the bankers emphatically state that the people who may be styled agriculturists but who are by no manner or means entitled to be put in the category of "the poor" should not derive any benefit from this Bill. The original bill as published in the U. P. Gazette dated May 18, 1933, was meant to give relief to an agriculturist whose revenue did not exceed the sum of Rs. 5,000 but in the select committee where the voice of the improvident and perhaps irresponsible Talukdars prevailed the bill was made applicable to the case of all the zamindars in these provinces.

The bill is essentially the outcome of the difficulties into which the poor "agriculturists" are supposed to have fallen due to the present world-wide depression. The borrowing of money and the payment of the same is one of the necessary contingencies of this life but there is no doubt that the purpose of borrowing differs in different walks of life. From time immemorial the tenantry have been borrowing money and to their credit it must be said that they also have been fulfilling their obligation in this connection. Due to the present unprecedented fall of prices of commodities the poor tenantry have in many cases been now reduced to a position where they are unable to meet their liabilities. It is only in the fitness of things that, between the money-lender and the borrower, a *modus operandi* should be established by which, taking into account the situation in general, an arrangement could be arrived at by which the burden of borrower may be lightened and the lender also be saved from ruination. It is a matter of great regret that this principle has been entirely lost sight of in the heat of discussions about this bill and selfish interests have been stuffed in with the result that the present bill is nothing but an enactment for giving undue and unwarranted assistance to a class of people who have led riotous lives on the hard-earned money of their neighbours, and who have now by their want of education, forethought and lazy habits been reduced to such a position where the only party to whom they can harm is their money-lender. The proposed remedy will be worse than the malady because it is not going to improve the morale and the foresight of the rich agriculturist who is bound to feel that in spite of his owing

large sums of money which he has squandered upon himself and his boon companions he has at the end come out with flying colours, while the man who has lent money to him is entirely at his mercy.

It would perhaps be not in very good taste to discuss in detail the reasons of the vast indebtedness of the rich agriculturists but the bankers would be failing in their duty if they did not point out that the debts incurred by the rich agriculturists were in very few cases the debts for "real necessities." Now it becomes more-or-less a matter of academic and psychological discussion to find out the root cause of the present state of the rich agriculturists, but one can not help remarking that the mode of life which due to various reasons the rich agriculturists, have decided to live in is mostly responsible for their present condition. Without meaning to offend anyone the association maintains that the Government has been always expecting the rich agriculturists to live beyond their means and since they have looked upon the Government as their only friends, they have more-or-less danced to their tune. The Bankers' Association feels that the great anxiety of the Government to help the rich agriculturists at the expense of the banking class is anything but fair.

Reverting to the subject again that the present bill is the outcome of the general trade depression, the Bankers' association fails to understand why a measure of emergency should be brought on the statute book without any limitation of time. No measure of emergency has so far to their knowledge been permanently put on any statute book and it is due to this reason amongst others that the Association apprehends that what is generally known as "The Agriculturists' Relief Bill" is really the thin end of the wedge. The objective is apparently the propitiation of a class of people whom the Government is anxious to protect at this moment for reasons best known to themselves.

The Bankers' association suggests that a good deal of the sting in this controversy would be taken away if a time limit, say of three years, is put on the life of this bill. By the end of three years there will be councils more representative of the interests of the public and it would be up to them to go through the question again and decide according to the concensus of public opinion.

The Association also maintains that the Government should stick to their original intention of helping no one but those who come *bona fides* under the denomination of "poor agriculturists." As to what actually a "poor agriculturist" means is a matter which can only be decided by the amount of the revenue that he pays. The Government had originally suggested that the maximum limit of revenue payable by an agriculturist to whom the bill would be applicable will be Rs. 5,000, but the Bankers' Association submits that this limit of five thousand rupees is too high. Their proposal so far has been that the limit should be only Rs. 1,000.

One of the most reprehensible provisions of the proposed enactment is that it has got a retrospective effect so far back as the year 1910.

We often hear these days that the tide of Communism is spreading fast over the world but we hardly come across a paper in which we do not read that the people of the great British Empire are not only the strongest opponents of Communism, but that in the various parts of the Empire they are trying their level best to uproot its very basic principles.

But the Agriculturists' Relief Act tells a different tale altogether. Without meaning any disrespect to the framers and the supporters of this Bill one can safely say without fear of contradiction that this bill is the best pilot of the cardinal principles of communism. Once this bill is brought on the statute book the Zamindars and the Government will find to their cost a great change in the general outlook of the people on the question of "property." People who lent money to *prima facie* respectable men in the year 1917 and onwards on contract solemnly and legally made are now told that although the borrowers have been ever anxious to stick to the terms of their solemn contract, their agreements etc. will become more-or-less as mere scraps of paper. It is a matter of great regret that some members of the Council holding a brief for the rich agriculturists had the audacity to whittle down the time-honoured principle of the "sanctity of contract." Nothing can be more Bolshevik, socialistic, and perhaps Russian than to state that agreements made on one's honour should have no sanctity attached to them. The propagation of this principle will undermine the foundation of the ideas that people have of respecting each other's right as well as their own obligations. It is suggested that even decrees given by consent or otherwise in connection with which people have been paying their dues should be reopened and tampered with radically in order to please the rich Zamindars. The Association is purposely using the words "rich Zamindars" in this memorandum because they have conceded that they shall have no objection to the bulk of the provisions of this bill, the retrospective portion of course excepted, if it is applicable only to those whose revenue does not exceed Rs. 1,000.

Once the people in this country who have been till late in the habit of borrowing money with a full consciousness of their obligations and who have always enjoyed a reputation for their honesty realise the significance of this bill, they will at once begin to imbibe the spirit of scepticism as to the virtue of keeping one's word of honour. The Government perhaps consider that they are benefitting the agriculturists but there will be nothing to stop other people who have borrowed money for their *bona fide* requirements, from entertaining the same spirit of scepticism and readiness to repudiate their liabilities. Much has been said in the press by the supposed loyalists that if ever there is a Government which has got anything to do with Mahatma Gandhi the first act of that Government would be the total repudiation of all the national debts. Mahatma Gandhi has frankly and openly stated times out of number that the people in this country are so poor and the nature of the national debts is so very unsatisfactory that he would not ask people to accept their liabilities for them unless and until the Government

proved that the debts were incurred in the interests of the people. The Government realise the far-reaching significance of this pronouncement of Mahatma Gandhi because they know that no matter how honest may be his ideas and feelings the direct result of a propaganda of this nature would be that the public at large would simply welcome the idea of repudiating their responsibilities for the payment of the national debts. If the framers and supporters of this Bill examine its underlying principles and implications in the cold light of reason they are bound to realise that a bill of this nature will sap the very foundation of the business of money-lenders in this country. Already there is such a hue and cry against the no-rent campaign and once the people begin to understand that there is no wrong in repudiating one's liability—if one is in some real or supposed difficulties—they would no doubt begin to repudiate their liabilities to pay rents to a Zamindar.

If the enactment is to have retrospective effect it would be interesting to enquire what amends the Government is going to make to those who have, on the basis of their annual profits, earned by way of interest, been made to fill the coffers of the Government in the shape of income-tax and super-tax. Now it is said that a major portion of interest will be considered to be diverted towards the payment of the principal. If figures are collected it would be found that huge sums in the shape of income-tax and super-tax have been paid by Bankers on their alleged profits in the shape of interest.

It would not be out of place to mention that the Bankers' Association has failed to understand under what principle of any system of jurisprudence known to the civilised world so far the Government is going to frame the enactment to declare things illegal which have been legal so far. There is no doubt that communism all the world over now is uprooting the well established principles of jurisprudence which taught the world to respect each other's rights of property and possession, and it appears that the only argument on which the enactment in question can be supported is one which takes its inspiration from the common principles of communism or Bolshevism whatever one may like to call it. It would not be perhaps ridiculous to state that if the future social reformers imbued with the mentality of the protagonists of the improvident zamindars get a predominant voice in the central Government of India they might with a view to set an example declare that all marriages contracted so far between parties under the age of 15 should be considered invalid. It may sound as an extreme case or perhaps some one may classify it as a joke but a clear conception of the principles involved in framing the Bill in question, would show that there is not much difference between the two cases discussed above.

It is emphatically urged that the rate of interest must be reduced. We have got a case in hand wherein a certain party invested money in the 6½ per cent Government of India Bonds to the extent of one lac of rupees. This party was approached by a rich agriculturist to lend him money and he sold out his Bonds soon after the purchase

and lent the amount to the zamindar at an interest of 9 per cent, which by no means is usurious. If the provisions of the present Act are applied to this case we shall ask the Government to ascertain how much loss this individual would be put to on account of the retrospective effect of the bill? The Government security for 6½ per cent has now gone up and if this individual had, instead of giving a helping hand to the rich zamindar, now sold out his bonds he would have gained a large sum both in the shape of interest as well as premium.

It appears that the Government began to feel the effect of the economic depression officially round about the year 1930 and it was due mainly to that cause that they had to undertake the most painful operation of cutting down the salaries of their trusted and loyal servants. We are well aware of the agitation that has been carried on in India and in England by the officials of the Government of India against this 10 per cent cut and efforts are constantly being made and pressure is being persistently brought on the Secretary of State for India to restore these cuts as early as possible. Every time His Excellency the Governor-General gets a chance to speak on any financial matter he refers to this cut in very feeling terms and gives the world to understand that no one is more unhappy than himself to see that the members of his Executive Council getting over 5,000 rupees a month and their secretaries are all crippled by the ten per cent cut. Thanks to the agitation of the services that 50 per cent of the cut has been restored and the services expect (although not the Exchequer) that the remaining 50 per cent would be restored next March. The bankers by the present enactment will be made to groan under a cut of 50 per cent at least. If the trouble went only so far perhaps one would put his house in order for the future but what may be called gross cruelty comes in when the bankers are asked to lose what they have legitimately earned by getting the interest already realised, spent and taxed upon credited towards the capital. It would be gruesome and at the same time interesting to see what would be the extent of panic amongst the very highly paid Government Officials who under no circumstances can be given the Biblical title of "the humble poor" if they are asked to be mulcted with even one per cent of the moneys which has gone into their pockets within the last 15 years. Without being personal the Association prays that all the salaried members of the government before whom this memorandum is put will give the matter a detached thought and then try to realise as to what would be the feelings of those who are receiving the most unmerited treatment by the enactment of this bill.

So far about the officials. The bankers will not be exaggerating when they say that the condition of affairs would be in the vulgar but true language "hellish" if the rich zamindars with their decorations and titles and insignias denoting wisdom, prudence, statemanship and loyalty would not be demoralized to the extent of becoming

rank revolutionaries and maniacs if they are asked to be out of pocket by even one-half per cent of what they have received as their dues so far since the year 1910.

The money-lenders have always had a bad name. The vaccinator too has got no better name in this country. Both are the essential growths of civilization and both are not so bad as they are painted to be. There is no similarity between the money-lenders and the vaccinator but the comparison has been introduced to discuss the point of their unpopularity and their utility in life. Subject to any correction of figures of which the best custodians are the Government, the Association maintains that the zamindari rents all round have practically doubled from 1910 onwards. The marked fall in prices has begun from 1930 and there is no reason whatsoever why any monetary contracts, or liabilities pertaining to them or decrees passed in connection with them should be disturbed in any way whatsoever, for the period prior to the advent of depression. Perhaps the misgivings and the anxieties of the money-lenders would not have been of such a grave nature if the framers of the Bill had confined their energies to the monetary transactions after the year 1930.

It is common knowledge that rich agriculturists possess a large number of house property in their district towns as well as in other places of importance like the centres of the government, places of pilgrimage, and hill stations. It is also common knowledge that they derive large amounts of rent from such property and it is really an extremely invidious kind of distinction that is being drawn in protecting the interests of such rich zamindars as compared with those who also possess large amount of house property but who do not get the benefit of fresh air by their swallow-like visits to their zamindari. If a rich zamindar holding house property in Lucknow wants to raise money in order to have a trip round the world or to buy a Rolls Royce car the Government would be putting him in a much better position than another humble and loyal citizen of theirs who has earned the money by the sweat of his brow and who has fallen in need of cash either to make provisions for his widowed sister or for the academic advancement of his son. These comparisons and illustrations clearly and unmistakably expose the utter inequity of the principles embodied in the Bill.

It is not every money-lender who has got a large capital of his own, but it is common knowledge that one who is usually known as a small Mahajan keeps his banking account with a bigger Mahajan or a shroff. On the strength of his own credit he borrows money at a lower rate and on the basis of his acquaintance and knowledge of the resources and honesty of his constituents he lends money at a little higher rate of interest. There is nothing wrong in this system because it is his business and the little higher interest that he gets is only his profit. If the transactions of small Mahajans are going to be so seriously interfered with, especially with retrospective effect, they will be totally ruined.

One of the most objectionable provisions of the Act is that which deals with the question of the revision of decrees. It will be remembered that the Agriculturist Relief Bill as it emerged from the Select Committee was silent on this point. It is true, no doubt, that there was a clause to that effect, in the Usurious Loans Amendment Bill, which was not considered by the Council in the last session. One who has witnessed the proceedings of the Legislative Council, while the Bill was on the anvil, will recall that this provision was sought to be thrust in by a well-known lawyer member of the Council, at the fag-end of the discussions during the second reading of the Bill. The Hon'ble the Finance Member at first expressed some hesitation in the incorporation of such a clause in the Bill, but later on, it appears that he yielded to the pressure of the Zamindar Members of the Council. It is really a colossal abuse of power that the decrees which have been obtained by creditors, after considerable expense, and prolonged litigation through all the stages from the trial court to the highest tribunal in the British Empire and in which every conceivable objection legal or otherwise has been raised, contested, argued and finally decided by courts of law will have no finality attached to them. By one stroke of pen the legislature has undone what the creditor had taken years to achieve. There can be no pretension, much less a justification for re-opening the decrees. Now the courts have been empowered not only to fix instalments in decrees already passed, but to reduce the decretal amount as well. The arch-supporter of this provision really added insult to injury when he went on step further and asked the Council to insert another sub-clause by which the decrees which to all intents and purposes are deemed to be satisfied in the eye of law by the execution of a fresh document should also be re-opened. Verily the vindictive spirit cannot go further than this.

It is also to be borne in mind that it has become more-or-less a well established fashion or convention not to pay one's debts. In clear mortgage cases the debtor rarely pays anything unless the matter comes to court. The net result of this is that the payment is inordinately delayed and large sums of money are spent which are not recoverable. In spite of these difficulties the Government is suggesting that instalments for a period of 4 years and 20 years should be granted on the application of judgment-debtors. Twenty years is a very big period of time and it is clear that in granting this kind of latitude to the debtors in general and rich agriculturists in particular the Government has got no desire to give the money-lender a chance to reap the fruits of his investment and to see his money returned to him in good time.

The enactment provides not only a nominal rate of interest after the decree but has given power to courts to grant instalments spread over an inordinately long period. A person is immune from the execution of a decree unless there are two or three defaults in paying instalments but in case there are defaults and the decree has got to be executed that does not mean the creditor has got his money back. It takes a long

time before the execution proceedings fructify and it is very hard on the creditor to know that he is not going to get any compensation whatsoever for the defaults of his debtors because the failure to pay does not *ipso facto* mean that the old contractual rate of interest would be restored.

Regarding the grant of instalments by the court to debtors the Bill contains some permissive provisions by which the court is authorized—if it thinks fit—to allow the attachment of the property of the judgment-debtor. If we take into consideration the length of the period during which the instalments have to be paid, the unwillingness of the debtor to pay his debts, and the thousand and one legal quibbles that are involved in every court case it becomes extremely harsh and tyrannical on the creditor if he is not given the satisfaction of being able to put his hand on the property of his debtor easily. The enactment does not even compel the court at the motion of the creditor to issue an injunction to the judgment-debtor restraining him from parting with his property in a direct or indirect way till the time of the payment of his debts. If protection of this kind is not given to the creditor a very large number of fraudulent transfers will be effected and the complications of the whole litigation will become so abnormal that it would be considered unwise and wasteful to take steps for the satisfaction of decrees passed.

The Government in its desire to help the "agriculturists" has also enacted that the forum of the litigations should be the place where the debtor resides or his property is situated. It can be understood that where the suit is for small amount of money against a poor agriculturist who evidently has got every intention to pay and does not want to seek any legal advice the effort should be that he should be put to the minimum inconvenience and expense and in spite of the old and famous *dictum* of law that the "debtor must seek the creditor" and not *vice versa* it may be enacted that the debtor should be allowed to choose his forum. But it would be absurd to suggest that when the subject matter of the suit is more than Rs. 1,000 the borrower should expect that the lender should undertake a journey to a place where everyone is friendly and favourable to the debtor and unfriendly and unfavourable to the creditor. One need not go into the details of this question as it needs no elaborate discussion as to what happens when a poor money-lender goes to execute a decree against a so-called poor zamindar. Those who have got to decide this matter must have, in their experience as Magistrates, come across with sad cases where a creditor in trying to get his money by the attachment of the goods and chattels of a zamindar not only loses his money but gets his head broken also. This is not all. To his great surprise he is hauled up in a court of law to answer a charge of rioting and assault and it is then only that he realises what it is to try to execute a decree in what may be called "the enemy's land". Suits involving a sum of more than Rs. 1,000 *prima facie* assume that the borrower is not a man of straw or poor in the real sense of the word and there is no reason why the

principles of existing law of the country should be discarded in dealing with a handful of men who we all know have borrowed money for no real necessities.

The Association feels that the framers of the Bill have got uppermost in their minds no desire to see that justice is done between the borrower and the lender but that the borrower is put on a higher level and in a stronger position than the creditor so that the former may be able to dictate his terms to the latter. What is the significance of the enactment that the lender must supply the borrower with a copy of accounts every year without any corresponding liability on the debtor to acknowledge or deny its correctness? Can we understand by any stretch of imagination the extent of the power given to the borrower by allowing him to go to sleep over the whole question and tantalising the creditor to draw his own conclusions as to the value of the accounts sent by him, presumably by incurring expenses and loss of time? Why should a similar duty be not imposed upon the borrower to show at least the courtesy of acknowledging the receipt of the account is not comprehensible at all? If the accounts are required to be sent with a view that the parties to the transaction may understand each other why should the obligation be on one side and not on the other? The object of the enactment can never be served unless and until the borrower is also asked to take the trouble of checking and examining the statements of accounts and raising immediate objection to any items that he may consider to be incorrect. To allow him the latitude which is being given by the enactment is nothing but to give him a chance to develop a dispute and attack the poor lender in the dark.

The Association appreciates the point of view of the Government that if any entry is made in a book showing an amount of an advance which is really false the writer of the book should be taken to task because it is *prima facie* evidence of something not straight and honest. But the wordings of the enactment are so peculiarly comprehensive that they would put the lender into a very awkward position because he is precluded from adding the expenses etc. in connection with the transaction of loan to the amount actually advanced. To wit, if A lends B Rs. 1,000, and he has to get a certain document inspected by a lawyer for which he pays Rs. 5 and he has also to buy stamp paper worth Rs. 5 and if he in his advance shows the amount to be Rs. 1,010, he has got to pay the penalty of Rs. 100, like an ordinary criminal. Even the Imperial Bank about whose methods of work no reflection of any kind can be made adopts the method of adding the expenses to the actual advance and showing in its books the whole sum consisting of the money advanced as well as the expenses incurred in connection therewith. If this is not allowed what procedure does the Government propose for the money-lender to adopt? Should he open two accounts one for Rs. 1,000 and the other for Rs. 10? If both sums are added to the principal with an explanatory note in the account books there is no reason why the entry in the account books should be impugned in any way.

In cases of Ugahi where pronotes have got to be changed from time to time and the services of scribes have got to be engaged and fresh stamps have got to be used, it will be gross tyranny if the poor lender is forced to spend all that money from his own pocket and suffer a similar loss from time to time when the pronotes are renewed. These are merely illustrations meant to draw the attention of the Government towards the evils which are likely to accrue unless the wordings of Section 37 of the enactment are radically changed.

Regarding the small loans upto Rs. 20, no interest has been allowed at all after the expiry of the stipulated period but the concession of instalments is permitted. If there is a default in the payment of an instalment the debtor does not suffer in any way while the loss of the lender is increasing every day in the shape of the loss of interest. Coupled with that is the disadvantage of the lender having to undertake a journey to a place where the debtor resides. The latter under the new law has got to keep a regular establishment of competent people to look after his books. If with the expenses that he incurs in maintaining his establishment, undertaking journeys to distant places, spending money on lawyers who are unknown to him, dealing with Court Officials who have no regard for him and yet with all that he is not to be given one pice by way of interest, his condition is really pitiable. The Association suggests that provisions should be made to allow interest to the creditor on the failure of any instalment and interest should also be allowed to run upto the time of the recovery of the money. It is well-known that the money spent on railway fares, food expenses, fees for lawyers' clerks and inevitable tipping in courts are not assessed as costs of the case.

The conferment of jurisdiction upon Collectors of the districts in connection with cases arising out of usufructuary mortgages is simply atrocious. If the Government wants to reduce judicial proceedings to executive proceedings the less said about it the better. The Collectors and their subordinates are imbued with a spirit to keep law and order and they do not generally possess the patience and the time to go into complicated matters of law and facts which are bound to arise in cases of mortgage suits. Without meaning any reflection on the knowledge of these officials one might safely say that their acquaintance with the Civil law in general and Law of Mortgage in particular is not what it ought to be.

To sum up then, the wide scope of the definition of the "agriculturist" without any restriction or limit, the granting of instalments to debtors spread over almost a quarter of a century, the drastic reduction in interest both before and after the decree, the retrospective effect so far back as the year 1910 and 1917, the change in the forum of suit against agriculturists who can not be really called "poor", the total stoppage of interest on loans up to Rs. 20 both on the failure of the payment of instalments and the expiry of the stipulated period, the reopening of decrees and bonds taken in lieu of decrees and the obligation on the creditor to submit an annual statement of account to the

debtor, without any corresponding liability on the part of the latter to acknowledge or deny its accuracy are some of the most objectionable features of the present enactment.

The above observations comprise only a portion of the criticism that can be levelled against the provisions of the Act in question, but it has to be mentioned that the Association has in this memorandum drawn the attention of the Government to the salient and at the same time scandalous provisions of the Act. A talk upon the subject between the representatives of the money-lenders and of the Government would certainly have been helpful in creating a better understanding for the present and a more congenial atmosphere for the future. But as the Government is evidently in a hurry to consider the Bill in the executive council, the members of the Association on behalf of themselves as well as the money-lending class as a whole urge with all the emphasis at their command that a legislation of this kind on account of its far reaching effects on the economic conditions of the people in these provinces should not be rushed through. It has to be admitted that the money-lending classes who have an investment of nearly 150 crores in the provinces have never been given a constituency of their own, nor when the time came any representative of theirs was co-opted with members of the Select Committee. The result was that the Select Committee was more or less a packed body and there was no one who understood the real point of view of the bankers.

The Association has passed some resolutions which have created a stir amongst the rich zamindars. It is being urged that the stoppage of credit is likely to result in good to the zamindars, but assuming that to be so, there is no justification for upsetting and interfering with past arrangements especially so far back as the year 1910. It is common knowledge that the agricultural rents have practically doubled between the years 1910 and 1930. The zamindars have all along gained high profits from their lands and if they have not paid up their liabilities due under that period, there is no reason why the lender should be punished. It is one thing to give relief to a really needy party but it is quite a different thing to pass an enactment of this kind by which the most undeserving individuals will thrive at the expense of those, whose only fault was to part with their money.

The whole matter involves issues of great magnitude and it is urged that the feelings of those in whose hands, the Bill is now lying should not be swayed by their personal relations with those who are now crying from their house-tops that they are out for the blood of the money-lender.

The problem has not only got a local interest for the money-lenders but its implications and after effects are bound to be of a very grave nature. Reference has been made in the memorandum to the direct and immediate results on the mind of an improvident man when he realises that the money which he had borrowed by giving his word of honour and the money which he has spent on his personal

aggrandisement he is not required to repay on the conditions on which he had borrowed. What will the next door neighbour of a man of this type think of his own liabilities towards his banker? There will be a vast tendency to repudiate liabilities and taking into consideration the present day tone and the mentality of a debtor the Association maintains that the enactment will create almost insuperable difficulties in the ways of those who want nothing but the return of their money. If once the spirit of denying monetary liabilities permeates the minds of the masses, trade and commerce will come to an end, and there will be nothing but chaos. It is probably then that the Taluqdars, the titled zamindars and the kowtowing tenant will in a fit of desperateness shout out

“INQILAB ZINDABAD.”



Bankers' Memorandum
ON
The Regulation of Sales Bill



Newal Kishore Press, Lucknow.

MEMORANDUM.

The members of the Lucknow Bankers' Association look upon the Regulation of Sales Bill with feelings of grave apprehension because the proposed Bill is calculated to inflict another serious and cruel blow at the profession of money-lending in these provinces.

It appears that there are some forces at work of which the main object is to help the debtor at the expense of the money-lender even though in such a process the latter might be reduced to destitution. It may be urged, and perhaps is actually urged, that the objective of those who are promoting this legislation is primarily to help the land-owning classes, whose condition at this time is said to be unsatisfactory. Whatever may be their object, it can not be denied that their activities are causing extreme hardships and grave injustice to the money-lending class. The object of the legislation may, from certain points of view, be styled as laudable, but it cannot be called truly laudable so long as it is based on principles of injustice. It now transpires that the promoters of the Agriculturists' Relief Bill, in moving it, were only introducing the thin end of the wedge in the Statute Book. The iniquities and the grave injustice of that legislation, the hardships amounting rather to spoliation under its provisions, contrary to all principles of equity, justice and good conscience, are still being discussed by the public and yet another measure in the shape of the Regulation of Sales Bill has been introduced and fervently pushed forward by some interested classes of people with the same object, namely the helping of debtors with other people's resources even though the process were to crush the money-lenders altogether. The public believed that the Agriculturists' Relief Bill would be the main anti-money-lender enactment for the relief of the agriculturists. When the arguments against the Agriculturists' Relief Bill became better appreciated, the impression created on the mind of the public was that the Government had realized that the provisions of the Agriculturists' Relief Bill were of such a far-reaching nature that they could not stand as proposed and that no other drastic legislation against the profession of money-lending would be contemplated.

All the same, the bankers now understand fully the implications of the Regulation of Sales Bill and also the eagerness of the Government to proceed with the Usurious Loans Bill and some other allied bills. The members of the Lucknow Bankers' Association take this opportunity of stating that they themselves are not in love with "usury" and that none of them would like to be a usurious money-lender. However, looking at the trend of events for the last twelve months and at the propaganda that the borrowing class have been carrying on in the press in these provinces the bankers fear that the provisions of the other Bills to be introduced by the Government would also involve the sapping of the foundations of the money-lending profession.

Although the hardships and the difficulties entailed in the provisions of the Agriculturists' Relief Bill have not been remedied as yet, even then thanks are due to His Excellency Sir William Malcolm Hailey for withholding his assent to bring that Bill on the Statute Book from a sheer sense of justice. Whatever may be the ideas in the mind of His Excellency which prompted him to withhold his sanction in this matter, the bankers have come to believe that an administrator of the experience and calibre of His Excellency has realized that the Agriculturists' Relief Bill is a harsh measure which requires re-consideration.

Some aspects of the Agriculturists' Relief Bill have already been discussed in the Memorandum of the Bankers' Association submitted to the Government in January last. They have been expecting that a thorough consideration would be given to the other side of the picture as represented by the bankers. With great regret the bankers state that the provisions of the Regulation of Sales Bill have given a rude shock to their hopes for the best.

The declared object of this Bill is to see that the money-lender does not get into his hands the landed property of the debtor to an extent which he would not have got at a time when there was no slump. The Bill as it has emerged from the Select Committee however goes much beyond this object as will be shown hereafter.

Provisions of a legislation like the Regulation of Sales Bill are absolutely opposed to the traditional principles of British justice. If, and we say it with the full sense of responsibility, it is the object of the Government to prolong the life of the leisured classes, why does not the Government with its vast resources both of finance and administration raise a loan for their benefit and administer their estates so that the dues of the money-lenders be paid up and the proteges of the Government be at the same time schooled to discipline and taught to cut their coats according to the cloth? If the Government were to float a rupee-loan to-morrow for this purpose, it can have any amount of money at its disposal within 5 to 6 hours at a low rate of interest. It is to be mentioned with great regret that the borrowing classes, who happen to be very influential in the Local Council and whom, as it appears from these Bills, the Government rather seems to be anxious to propitiate and patronize, have of late assumed an attitude which has disturbed all the other classes. It has already introduced two Bills, and some others are to be introduced shortly, the provisions of which are still unknown, but all of them, it is feared, will be calculated to hit the money-lender on all sides. If such enactments are to be passed, it would be much better if the money-lenders are directed to destroy all their bonds and account-books at one stroke rather than suffer the excruciating pain of seeing them nullified bit by bit.

The perusal of the statement of objects and reasons of the Regulation of Sales Bill shows that the uppermost idea in the minds of the framers of the Bill was that property of higher value should not pass into the hands of the money-lender, compared to its relative of value at

the beginning of the transaction. This is however based on the assumption that all loans covered by the provisions of this Bill were advanced at a time when prices were high. This, however, is not the whole truth. The depression in the agricultural world in these provinces can be safely said to have commenced from the year 1930 and it can almost be taken for granted that whosoever has lent money to a landlord after 1929 has done so after taking into consideration the then profits and the market value of the property of the borrower. If the provisions of the Bill are to be applicable as recommended by the Select Committee to all transactions prior to the passing of this Bill, the condition of those money-lenders who have advanced large amount of loans in the years 1930, 1931, 1932, and 1933 would become extremely deplorable.

The remissions from the year 1930 onwards can safely be stated to range on an average of 6 annas in the rupee. Consequently the net profits from the lands in the years 1930 onwards were at least reduced by this proportion if not more. The fact of the matter is that the remission of the revenue has been proportionately much less than the remission of the rent and the value of the landed property has considerably gone down for this also among other reasons. In such a case the total profit of the landlord would be reduced by about 40% and whosoever will lend money to him in those circumstances will take into consideration the value of the land from that point of view also. The Bankers' Association very humbly submit that, *irrespective of the merits of the provisions of this Bill, it should not be made applicable to those transactions which were made after the year 1929.* It seems that this request is so reasonable that it has only to be pointed out to commend itself to the authorities.

It has also been not only hinted at, but suggested that whoever lent money to a land-owning individual had his eyes on his lands at that time. This is a clear travesty of facts and of the situation as it really and palpably exists. If a money-lender asks for some good security while advancing a loan he does so merely with the idea of meeting an extreme situation of realizing his money when the worst comes to the worst and not at all with the idea which is by the framers of the Bill attributed to him. He takes the land most reluctantly and always prefers cash returns wherever possible. The opposite position is an exception rather than the rule. It is not a paying proposition for a money-lender living in a town to invest his money in the purchase of lands because it is common knowledge that agriculture can never be made a success unless the owner of the land is himself taking a personal interest in it and is present at the spot. Not in a few cases the value of the property hypothecated becomes below the mortgage money soon after the transaction by increase of interest. The hypothecation in such cases is taken simply with a view to restrain the debtor from forgetting his obligations and also from not running after another money-lender for a fresh loan on the security of the same property. Cases of this nature are not infrequent and they are illustrative of the fact that it is unfair to ascribe to the money-lender unwarranted motive

of greed to grab the property in every transaction where property has been hypothecated by the debtor. Hypothecation is intended only to safeguard the creditor from possible defaults of debtors and not to acquire property.

There is another very important side to this question which seems to have been overlooked. The proposed Bill leaves the public in a fix as to what will happen with regard to the Income Tax on those sums which are presumed to have been only legally received by the money-lender in the shape of decretal amount but which are not actually received by him. Moreover, the last sale of land would mean a sort of foreclosure for the balance due because the money-lender has got no choice but to submit to that. Ordinarily in cases of foreclosure the Income Tax authorities charge Income Tax not on the amount actually received by the money-lender but on the amount which is supposed to be adjusted by the process of foreclosure. If these provisions be considered applicable in the case of the present Bill also the money-lender would be doubly ruined for not only would he not really receive his whole amount but would also be charged with Income Tax on such sums as are supposed to have been received under the stringent provisions of the Bill.

The Bill is said to be aiming at cutting short the fast process of transfers of lands from the hands of the land-owning classes to those of the money-lenders. But we believe that in pushing the legislation for this purpose the framers of the Bill can reasonably be expected to avoid doing any injustice to the money-lender. As has been mentioned above, the whole Bill seems to be based on the presumption that by the end of 1935 things would become normal and, in spite of his legal and decretal demands having been scaled down, the money-lender would not lose anything eventually. If the justified and legal demands of the money-lenders are to be crippled and mutilated by a process which can be called "humanely cruel" there is no justification whatsoever to put the lender to the loss of interest if he shares the same hopes with the framers of the Bill about the return of normal conditions in the beginning of 1936 and as such chooses to exercise one of the options given to him by the Bill namely the postponement of sale. What is the propriety or the legality of such a suggestion as is made by the Hon'ble Mr. Blunt and other official members in directing that if the money-lender chooses to have the sale postponed he should be deprived of interest during the period of postponement? The note of one of the leading Zamindars in the province who sat on the Select Committee shows that he himself felt that the money-lender should not be entirely deprived of interest during the period of the suspension of sale. *If for any reason the Bill becomes law, it is extremely desirable that provision should be made therein for the appointment of a receiver of the property in question in the case of the postponement of the sale. The function of the receiver should be to see that the lender gets his interest from the property in question during the period of suspension.*

Clause (5) of the Bill would work very harshly in some cases. If, for example, some property worth Rs. 5,000, is put to sale in execution

of a mortgage decree for Rs. 10,000, would the latter be entirely extinguished by the decree-holder's accepting the attached property in part-satisfaction of his decree. The provision seems intended only to avoid passing of personal decrees under Order 84, Rule 6 C.P.C. in such mortgage cases in which the mortgaged property is not sufficient to extinguish the entire mortgage decree. It is however expressed in too general terms so as to cause serious trouble to the decree-holder. In the example given above, the decree-holder should either lose Rs. 5,000, or agree to the postponement of the execution of the decree or suffer a loss of 50 per cent extra by having the property auctioned. The net result would be to deter the decree-holder from executing his big decree by putting to sale small property. It is also improper and unjust to deprive mortgagees of their remedy under Order 84, Rule 6 C. P. C.

The provisions of clause (6) of the Bill, due to its having been drafted at the suggestion of parties whose sympathies are entirely with the borrowers—who according to Charles Lamb may be called “great men”—do not take into consideration a contingency which may arise during the period of the postponement of sale in a money decree the consequences of which may be utilized towards the protection of the interest of the money-lenders. We make the point clear through an example. If during the period of the postponement of sale a borrower somehow comes in possession of a big sum of money why should not that money be attached forthwith? Or in another case if the decree-holder were to attach the movable goods of the borrower with the expectation that the latter's wife or some other relation may come out with a sum from their hidden treasures to save the household goods to which they may be attached, why should not such a course be allowed to the decree-holder so that his decree may possibly be satisfied? In view of the examples given above, it is clear that the provisions of section 6 which require that in case of the postponement of sale of land, all execution proceedings whatsoever shall come to an end, make the position very hard for the money-lender. Those who want to save the borrower's land may direct their attention entirely to the land and nothing else. If a choice were given to the money-lender to exercise his right of executing his decree in various ways, set forth in the Civil Procedure Code, and at the same time to join hands with the Government in protecting the landed property of their friends by postponing the sale, a little of the hardship entailed by this Bill is likely to be removed.

The Bankers deem it necessary to incorporate in this memorandum the opinion and criticism of one of the most prominent public men in these provinces, who fortunately belongs to neither the lending nor the borrowing class, namely Babu Brijnandan Prasad, Ex-M. L. C. of Moradabad. His able criticism in a simple way with illustrations and examples has exposed the extreme unfairness of some of the provisions of this Bill. He has observed as follows;—

“The slump in prices has not been brought about by any act or conduct of the money-lenders. If anything, it is an act of God, and if there was to be any readjustment of claims between debtors and creditors

consideration should have been shown to both. The new Bill is wholly one-sided. The notification issued early in 1933 clearly indicated that the Government expected that the purchasers at auction would not under the existing circumstances bid even up to 20 times the net profit (after deducting remissions) and so provided for sales standing over till December 1934, to secure fair prices. But clause 8 of the Bill provides that the price will be calculated at 20 to 80 times the profit (not excluding remissions). Remissions have been granted at the rate of 8 annas, 7 annas, 5 annas, and 3 annas in the rupee. So taking the average roughly at 6 annas, if the rental in a village was say Rs. 100 it would after reduction be Rs. 62-8-0. Under the old notification the estimated price would have been Rs. 1,250. Under the Bill it would be between Rs. 2,000 and Rs. 3,000. The Government last year rightly seemed to apprehend that property will not be sold for Rs. 1,250 and now it is considered likely to be sold for Rs. 3,000.....The experience of sales by revenue officers proves that the estimated price is not only meant as an information for bidders, but the sale officers rarely knock down the property under the estimated price. It should not be so, as estimate price is not reserve price. Under the present circumstances this will be enforced with greater rigour and the result will be either the sale will be postponed from time to time or indefinitely for absence of proper bids or the decree-holder will be compelled to save himself from further botheration by purchasing property worth Rs. 1,250 (or even less) for Rs. 3,000. His dues will have been considerably reduced under the Agriculturists' Relief and Usurious Loans Acts and this will reduce his money further so that one may seriously doubt if he will get even 50 per cent of his money in the shape of property which he does not in all probability like to have. He wanted money but property is indirectly forced on him. Having reduced the amount of loan and given a decree for what the legislature considers a reasonable amount, something should have been done by the Government to see that the creditor gets at least his decretal amount. The Government should by Land Mortgage Banks or otherwise secure the early payments of the decrees thus passed and not create fresh difficulties in the way or further reduce the dues.

Clause (4) surpasses all measures in ambiguity and harshness. It provides that in case the price fetched by the property does not satisfy the decree fully, it shall be decreed to satisfy it to the extent of one and a half times the sum realized together with half the difference between it and the decretal amount whichever is greater.....It does not appear why 50 per cent more is to be credited even if a person other than the decree-holder buys. If it is held that the value of the rupee has increased and a rupee is now worth at least a rupee and a half before 1930, it may fairly be asked if this proposition is to hold good only in case of money-lenders or it is to be operative elsewhere also. In the latter case the rate of pays and allowances fixed before 1930 the rent and revenue etc. should also be reduced in the same proportion.

The Government and the Council should see that already the blow on the money-lenders has been heavy enough. It is not easy to

say if the profession will survive, but this much is certain that in view of interference with old contracts to such an extent, a sense of insecurity has been created which makes creditors hesitate to lend money and persons in genuine need find it difficult to get loans. It is difficult to sell properties on account of the Government measures relating to them and it will be difficult to get loan on account of its debtor relief measures. No one can say with any certainty now, when a contract now legal, may become illegal and liable to be interfered with.

The words of the Select Committee about fixing a low rate of interest are very significant. This seems to indicate clearly that any provision adverse to money-lenders will probably be passed by the Council. Under these circumstances it is the clear duty of the Government to see that justice is done to all. What is land to an agriculturist, money is to the money-lender. Both are properties and it is the duty of the Government to see that they are secured to the rightful persons. If it decides to reduce the burden of loans which according to its view has, owing to temporary causes, swollen to abnormal proportions, it should go only so far as is absolutely necessary and no further."

Every business man and for the matter of that any man in any profession has fallen on evil days. The only people who can be described to be the favourites of Fate are those who hold appointments under the Government. A mere cut of ten per cent in the salaries of the Government servants has created such a whirlwind of excitement and noise that one often feels as if the world is coming to an end. All the officials, high and low, have done their bit in getting the cut reduced, if not removed. May it be expected that the high officials will not be altogether callous to the interests of the money-lenders?

The remedies suggested in the Bill are no real remedies. They only amount to maiming or mutilating the money-lender. Why should a money-lender be forced to become a landlord when he does not wish to become one is not explained? If the poor man declines to take the risk of settling down in the midst of a hostile crowd who are by no means peaceful enough to abide by the decrees of Courts, he has to be content with the whimsical provisions of this Bill wherein manipulations are set in by which the net result is that he loses over 50 per cent of his dues. The money-lender has been a great believer in constitutionalism and a legislation of this nature is bound to create a ferment in his mind which is not likely to produce results beneficial to those for whose advantage the money-lender exists. Speaking from a very general point of view the money-lender should not hesitate in coming forward with his helping hand to allay the situation as has been created by various causes amongst which the exchange and economic policies of the Government occupy a vital position. He is prepared to bear his due share of the brunt of the depression, and all that he can be expected to give up is a reasonable portion of his profits, since the time the general rate of interest on Government loans has gone down and no more. In how many cases does not the money-lender do so these days can be seen from the records of the Courts. If the case does not go to Court and the matter is compromised between the parties, we can

say without fear of contradiction that profits in the shape of interest are considerably and vitally reduced. It is the fashion of the day to grant such facilities to the borrowers and yet it is not understood why a class of persons, who have never cared for money whether their own or somebody else's, should be extended this special protection by the Government in whose eyes every one should occupy the same position.

A broad question of principle is also involved in the present legislation for the relief of the agriculturists and zamindars. If for certain reasons good, bad or indifferent, it is thought fit and proper to help them, let them by all means be helped, but by no principle of justice can this be done at the expense of only a small portion of society, namely the money-lenders. The slump itself has greatly injured them along with other members of the society. They believe in the sanctity of law. Relying on that law they advanced money to the borrowers. Their contracts were valid for years and years together. All of a sudden they are now being made partially or wholly invalid. This is unfair. They realized certain sums as profits in the shape of interest and paid Income Tax to the Government on that basis and built up their own status and expenses according to their income. Now they are being told that they had no such income and had in effect been living for years on their capital. This amounts almost to a capital levy on a loyal and law-abiding section of society for no fault of its own. If it is submitted that this part of society alone should not be penalised for the unfortunate slump. Let the whole society bear the loss for the wretched condition in which some agriculturists find themselves on account of world causes. The money-lenders are ready to bear their due share of world troubles, but they will simply be ruined if the whole burden falls on their slender shoulders. If the rates of interest in some cases be too high let them be scaled down to a reasonable extent. The risks which the money-lenders run by advancing money to poor propertyless people and the troubles and expenses they have to undergo in realizing their dues from the big Zamindars should be considered in fixing such reasonable rates. After such reasonable scaling down of their claims they should in all fairness be helped to realize their decrees instead of putting obstacles in the process. If they are first allowed only a small portion of their dues in their decrees and are then ruined in the execution department, their position will be pitiable, to say the least of it. Let the Government fix any rates for future transactions but the money-lenders can not be justly deprived of their legal dues in such arbitrary manners as are proposed.

Besides the justice of the question, experience will also show that no body would in future be ready to advance money if the money-lenders are very unjustly treated. In such a case the prices of land shall fall and agricultural sowings shall very appreciably diminish causing a partial collapse of the economic structure of the country for it cannot be denied that the much-maligned money-lender also supplies a very real need of the country and agriculture cannot simply prosper without him.